

# Adultery Anatomized:

In a SELECT COLLECTION of

†

## T R Y A L S,

F O R

## Criminal Conversation.

Brought down from the

Infant Ages of Cuckoldom in England,

T O

Its Full Growth in the present Times.

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In T W O V O L U M E S.

---

V O L. I.

---

From hence let those be warn'd who mean to wed,  
Least mutual Falshood stain the Nuptial Bed,  
For each Deceiver to their Cost may find,  
That Marriage Frauds too oft are paid in Kind.

CONGREVE.

---

L O N D O N :

Printed in the Year MDCCLXI.

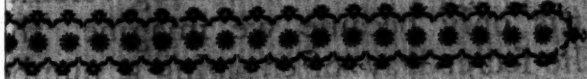


Trials: Collections

JAN 7 1936

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take the liberty of inserting  
 the following volume



of purchase will be to have a  
 many patrons of the  
 of any body of men, to understand

**Most Ancient, and Honourable Order**

of the  
 of the

**CUCKOLDS.**

**GENTLEMEN,**

WE hope you will not re-  
 gard this address in the  
 light of an insult, which  
 will be equally cruel to  
 yourselves, and unjust to  
 us; in fact, we have always looked  
 upon the unmerited reproach you have  
 met with, as the highest breach of  
 candour and humanity, and if we now

take the liberty of intreating your protection for the following volumes, it is only because we imagine, that the secret way of engaging a number of purchasers, will be to have a great many patrons, and we cannot think of any body of men, so maletudinous, and diffusive as yourselves.

Not but the subject of our book gentlemen sufficiently justifies us in dedicating it to you ; indeed, we could not without a manifest impropriety, have attempted to inscribe it any where else ; since it is in reality, a *History of Cuckoldom* : we apprehend to, that by bringing you intimately acquainted with it, we shall perform an act of friendship, as it will at least serve to reconcile you to your fate, by shewing you, that it is what the wisest and best of men, have not been able to guard against ; nay, even kings themselves, have often been distinguished, like bucks of the first head, as much  
by

by the extraordinary magnitude of their horns, as by leading the herd : add likewise, that it will caution you against that remedy worse than the disease, a public trial, which instead of plucking the evil out by the root, preserves it green to latest posterity. Let it alone, time will wither it, and it will die away, but a public trial, make the branches flourish when the forehead they grew upon is dust and ashes : or in the words of Shakespear, it sets you up for ever,

*A fixed figure for the hand of scorn.  
To point his slow unmoving finger at.*

But now we are fallen upon this subject, I believe it has been asked above a thousand times, why horns, should be the indelible mark of the cuckold, as well as the devil : whereas, the former is of a nature so opposite to that of the father of all evil, that he is, generally speaking, the

quietest, and best-conditioned creature in the world. To this the learned have made innumerable answers, many of which, in our opinion, carry more of curiosity than weight with them: however this we are sure of, that the insignia of cuckoldom, cannot have subsisted from the earliest ages, since Solomon, who certainly must be allowed to know these affairs, positively says, that *a virtuous woman is a crown to her husband*. Now unless you will allow this to be a mistranslation, according to the modern heraldry, it should be, *a wanton woman is a crown to her husband*. Man and wife are said indeed to be one flesh, but I cannot see the least cause either in reason or nature, why the faults of the wife's tail, should fall upon the husband's head; or why, a gallant's throwing her upon her back, should bring all the world upon his back wherever he goes.

But



But it is a trite observation, that there is no conveniency without an inconveniency : and without some people think it unfair, to enumerate the disadvantages of cuckoldom, while we make no reckoning of its favourable appendages. Certainly it would be so, and for this reason, we cannot omit mentioning the old proverb, CUCKOLDS GO TO HEAVEN, a most comfortable, and happy assurance, not only as it respects a man's future state, but as it may tend to make him more fond, and affectionate towards his earthly yoke-fellow. For quere, whether in this case, a very tender, and pious woman, may not make her husband a cuckold, purely out of a regard to his eternal welfare, and certainly it would be the height of ingratitude in us, not to love her, who so kindly endangers her own soul, in order to preserve ours. But then the consequence of this, is fathering the children which a man does not get. But

then let us only ask ourselves the question, whether any person would think it hard, to reap the fruit of that ground, which another had ploughed for him. And by answering as we must in the negative, the matter will be rendered intirely easy.

Besides we shall find upon a strict enquiry, that cuckoldom, has not at all times, and in all nations, been held, in such a degree of contempt; the story of Cato is well known,

*Who dearly lov'd his wife,  
Yet if a friend a night, or so, should  
need her,*

*Would recommend her, as a special  
breeder.*

We know several gentlemen now in London, who upon this principle of Cato's, might set up for a true Roman spirit. Let it be remembered too, that when Cæsar first invaded  
this

this island, that *Britons had their wives in common*. What are we doing in those modern days then? only reviving an old custom of our ancestors; and old fashions must be revived, as it is morally impossible for the invention always to be on the stretch for new ones.

But by this time, gentlemen, we are afraid, that you think we begin to carry the jest a little too far, we shall therefore descend at once into downright earnest, which you cannot doubt of, when we subscribe ourselves,

Gentlemen,

Your sincere Friends,

and Brothers,

A Society of CUCKOLDS.

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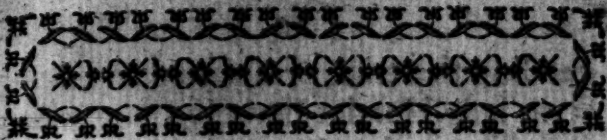
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doubt of, when we subscribe ourselves,

Gentlemen,

Your sincere Friends,

and Brothers,

A Society of Quakers.

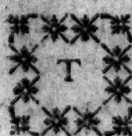


# ADULTERY

## ANATOMISED.

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*To shew the Ladies, that we have not undertaken this Work merely with a View to expose the Frailties of the Fair Sex, we shall begin our Collection with the TRIAL of FORD Lord GREY, in the reign of Charles II. for seducing to Criminal Conversation his Sister-in-Law, the Lady HENRIETTA BERKELY.*


 HE court being sat, and his lordship come to the bar, the charge was brought against him, by several learned gentlemen, to the following effect. That my lord Grey had, for four years pre-

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ceeding the trial, prosecuted an amour with lady Harriet Berkely; and when it came to be detected (some little accident discovering somewhat of it) my lady Berkely, her mother, did find there was some business of an extraordinary nature between them, and therefore forbad my lord Grey her house: however, his lordship made many pretences to my lady, that he might come to the house, to give them a visit before he departed, being to go into the country. Here he took an opportunity of settling a method to convey away the young lady. And, that accordingly, on the 20th of August, in the 34th year of his majesty's reign, at Epsom, in the county of Surry, he, with the assistance of Robert Charnock, Anne Charnock, David Jones, Frances Jones, and Rebecca Jones, did conspire the ruin and utter destruction of the lady Henrietta Berkely, daughter of the right hon. George earl of Berkely, to the grief and sorrow of all her friends, and to the evil and most pernicious

nicious example of all others in the like case offending, by seducing her from her father's house, though under the age of eighteen years, and soliciting her to commit whoredom and adultery with my lord Grey, who had before married the lady Mary, another daughter of the earl of Berkely, and sister to the lady Henrietta. That, after they had thus inveigled her, they did, upon the same 20th of August, carry her out of the house, without the earl her father's licence, to the end that she might live an ungodly and dishonourable life; and after they had thus carried her away, they obscured her in secret places, in order to elude discovery, and several pursuits that were made in search after her. It seems this amour was first discovered by the old lady Berkely surprising lady Henrietta in writing a letter to my lord Grey; and thereupon lady Berkely charged his lordship with some applications to her daughter, which did most horribly misbecome him.

My lord was then so sensible of his fault, that he seemed very full of penitence, and promised never to do the like again; earnestly intreating her ladyship, that she would conceal it from the earl her husband; which petition he backed with many cogent arguments, and therefore desired lady Berkely, who, as we have already mentioned, had justly forbid him her house on this occasion, to take off that prohibition, at least for some time, for fear the world should enquire into the causes of it. He intreated her to suffer him to make one visit more, which he assured her was not with any purpose of dishonour; but that his forbearance of her house might be done by degrees, and so the less taken notice of. Old lady Berkely next took her daughter to task, for having given allowance to the indecent practices of my lord Grey. The young lady thereupon fell down on her knees, and with tears in her eyes confessed, that she had done amiss, but humbly hoped that

that her mother would forgive her; for, being young, she had been seduced by my lord Grey.

Upon these fair asseverations of the two parties, his lordship, as has been said, was suffered to come once more to Berkely-house: but staying too long there for a mere visit, the old countess began to entertain some suspicions; which, as appeared afterwards, were but too well grounded. My lord, just before his departure, was observed to give some directions, with great earnestness, to his servant Charnock: and, the morning after, his lordship went into Sussex, the lady Henrietta Berkely was missing; upon which her mother instantly sent after lord Grey, to acquaint him the young lady was carried off, and that it was imagined, with great probability, he knew whither. He immediately made haste up to town, wrote the old countess a most submissive letter, that truly he would take care to restore peace to the family, which, by

his folly, had been so much disturbed; which it was impossible to do by any other means, than those proposed by her ladyship, viz. giving her child up to her again, before the scandal of her elopement was made too public. But, after this, my lord Grey was so far from performing these specious promises, that he stood upon terms. He was master of the lady, and would dispose of her as he thought fit. Third persons and places must be appointed, with whom and where he would treat. He stipulated also, that he should see lady Henrietta as often as he thought fit; which was, if possible, a worse indignity than that he had done before. In short, this nobleman was arrived to such a height of confidence in his barbarous and infamous wickedness, that, having made enquiry, and found that the law could not reach him, he determined to stop at nothing, in order to retain possession of that which he got by his lust and injustice.

[ *About*



[*About this time lady Henrietta Berkely came into the court, and was set by the table, at the judges feet.*]

E. Berk. My lord, my daughter is here in court, and I desire she may be delivered up to me.

Serj. Jeff. Pray, my lord, give us leave; time enough to move that yet. Swear the countess of Berkely. [*She was not able to speak*] I perceive my lady is much moved at the sight of her daughter. Swear her daughter, my lady Arabella, first.

Lad. Arab. My mother coming to my lady Harriet's chamber, and seeing there a pen wet with ink, examined her where she had been writing. She, in great confusion, told her she had been writing her accounts. My mother, not being satisfied with her answer, commanded me to search the room. Her maid being in the room, I thought it not so much for her honour to do it then. I followed my mother down to

prayers. After prayers were done, my mother commanded my lady Harriet to give me the keys of her closet and her cabinet. When she gave me the keys, she put into my hand a letter, which was to this effect.---“ My sister Bell did not suspect our being together last night; for she did not hear the noise. Pray come again Sunday or Monday: if the last I shall be very impatient.”--- I suppose my lady Harriet gave my lord Grey intelligence that this was found out; for my lord Grey sent his servant to me, to acquaint me he desired to speak with me. When he came in first, she (I mean my lady Harriet) fell down upon the ground like a dead creature. My lord Grey took her up, and afterwards told me, said he, you see how far it is gone between us: and he declared to me, he had no love, no consideration for any thing upon earth but for her; I mean dear lady Hen, said he to me: (for I say it just as he said it). And after  
this

this he told me, he would be revenged of all the family, if they did expose her. I told him it would do us no injury; and I did not value what he did say; for my own particular, I defied him and the devil; and would never keep council in this affair. And, afterwards, when he told me he had no love, no consideration, for any thing upon earth but her, I told my lady Harriet, I am very much troubled and amazed, that you can sit by and hear my lord Grey say and declare, he has no love for any but you, no consideration for any one upon earth but you, when it so much concerns my sister: for my part, it stabs me to the heart, to hear him make this declaration against my poor sister Grey. After this she said nothing. I told her, I suspected my woman had a hand in it, and therefore I would turn her away. This woman, when my lady Harriet ran away, being charged with it, swore she had never carried any letters be-

tween them: but after my mother's coming to London, both the porter at St. John's, and one Thomas Plover, accused her, that she had sent letters to Charnock, who was my lord Grey's coachman, now his gentleman. I told her then I did much wonder she, being my servant, should convey letters between them, without my knowing. She then confessed it to me; but withal she told me, How could I think there was any ill between a brother-in-law and a sister? And upon this she confessed to me, she had sent letters to Charnock, though before she had forsworn it.

Serj. *Jeff.* Pray, my lady Berkely, will you be so good now as to tell what you know of this matter. [*She seemed unable to do it*] The sight of her daughter puts her out of order. Pray madam compose yourself, and speak as loud as you can.

Count. *Berk.* When I first discovered this unhappy business, how my son-in-law, my lord Grey, was in love  
with

with his sister, I sent to speak with him; and I told him he had done barbarously, basely, and falsely with me, in having an intrigue with his sister-in-law. That I looked upon him, next my own son, as one that was engaged to stand up for the honour of my family; and, instead of that, he had endeavoured the ruin of my daughter, and had done worse than if he had murdered her, to hold an intrigue with her of criminal love. He said, he did confess he had been false and base, and unworthy to me; but he desired me to consider (and then he shed a great many tears) what it was that made him guilty, and that made him do it. I bid him speak. He said, he was ashamed to tell me, but I might easily guess. I then said, What, are you indeed in love with your sister-in-law? He fell a weeping, and said he was unfortunate; but if I made this business public, and let it take air (he did not say this to threaten me, he would not have me



to mistake him) or if I told my lord, her father, and his wife of it, it might make him desperate; and it might put such thoughts into his wife's head, that might be an occasion of parting them: and that he, being desperate, did not know what he might do: he might neither consider family nor relation. I told him, this would make him very black in story, though it were her ruin. He said that was true, but he could not help it; he was miserable, and if I knew how miserable I would pity him. He had the confidence to tell me that. And then he desired, though he said I had no reason to hear him, or take any council he gave me (and all this with a great many tears) that I would keep this secret. For, my lord, if he heard it, would be in a great passion, and possibly he might not be able to contain himself, but let it break out into the world. He may call me rogue and rascal

rascal perhaps in his passion, said he, and I should be sorry for it, but that would be all I could do; and what the evil consequences might be, he said, he knew not, and therefore it were best to conceal it. And after many words he pacified me, though nothing indeed could be sufficient for the injury he had done me; he gave it me as his advice, that I would let my daughter Harriett go abroad into public places with myself, and he promised, if I did, he would always avoid them. For a young lady to sit always at home, he said, it would not easily get her out of such a thing as this; and upon this, he said again, he was to go out of town with the D. of M. in a few days; and being he had been frequently in the family before, it would be looked upon as a very strange thing that he went away, and did not appear there to take his leave. He promised me, that if for the world's sake, and for his

his wife's sake, (that no one might take notice of it) I would let him come there and sup, before he went into the country, he would not offer any thing by way of letter, or otherwise, that might give me any offence. Upon which, I did let him come, and he came in at nine o'clock at night, and said, I might very well look ill upon him, as my daughter Bell also did (his sister) for none else in all the family knew any thing of this matter but she and I. After supper he went away, and the next night he sent his page (I think it was) with a letter to me, he gave it to my woman, and she brought it to me; where he says, that he would not go out of town. If your lordship please, I will give you the letter: but he said, he feared my apprehensions of him would continue. There is the letter.

*[Clerk of the crown reads the letter.]*

MADAM,

MADAM,

“ After I had waited on your ladyship last night, Sir Thomas Armstrong came from the D. of M. to acquaint me that he could not possibly go into Sussex, so that the journey is at an end: but your apprehensions of me, I fear will continue. Therefore I send this to assure you, that my short stay in town shall no way disturb your ladyship; if I can contribute to your quietness, by avoiding all places where I may possibly see the lady. I hope your ladyship will remember the promise you made to divert her, and pardon me for reminding you of it, since it is to no other end that I do so, but that she may not suffer upon my account. I am sure, if she doth not in your opinion, she never shall in any other. I wish your ladyship all the ease that you can desire, and more quiet thoughts than ever I expect to have. I am, with great devotion, &c. &c.”

*Lady*

*Lady Berk.* when I came to my daughter (my wretched unkind daughter, I having been so kind a mother to her, and would have died rather [upon the oath I have taken] than have done this, if there had been any other to reclaim her) and would have done any thing to have hid her faults, and died ten times over, rather than this dishonour should have come upon my family. This child of mine, when I came up to her, fell into a great many tears, and begged my pardon for what she had done, and said she would never continue any conversation with her brother-in-law any more, if I would forgive her; and she said all the things that would make a tender mother believe her. I told her, I did not think it was safe for her to continue at my house, for fear the world should discover it by my lord Grey's not coming to our house as he used to do; and therefore I would send her to my son's wife, her sister  
Dursley;



Durley; for my lord Grey did seldom or never visit there, and the world would not take notice of it; and I thought it better and safer for her to be there with her sister, than at home with me. Upon which, this ungracious child wept so bitterly, and begged so heartily of me, that I would not send her away to her sister's; and told me, it would not be safe for her to be out of the house from me. She told me, she would now confess to me, though she had denied it before, that she had writ my lord Grey word, that they were discovered, which was the reason he did not come to me upon the first letter that I sent to him to come and speak with me. And she said so many tender things, that I believed her penitent, and forgave her, and had compassion upon her, and told her (though she had not deserved so much from me) she might be quiet, and seeing her so much concerned, I would not tell her sister.

Dursley her faults, nor send her thither till I had spoken with her again. Upon which, she, as I thought, continuing penitent; I kissed her in the bed when she was sick, and hoped that all this ugly business was over, and I should have no more affliction with her, especially if my lord removed his family to Durdants: when we came there, she came into my chamber one Sunday morning before I was awake, and threw herself upon her knees, and kissing my hand, cried out, oh madam! I have offended you, I have done ill, I will be a good child, and will never do so again; I will break off all correspondence with him; I will do what you please, any thing that you desire. Then said I, I hope you will be happy, and I forgive you. Oh! do not tell my father (she said) let him not know my faults. No, said I, I will not tell him; but if you will have no correspondence with your brother-in-law; you will make  
a friend

a friend of me: and though you have done all this to offend me, I will treat you as a sister, more than as a daughter, if you will but use this wicked brother-in-law as he deserves. I tell you, that youth and virtue, - and honour, are too much to sacrifice for a base brother-in-law. When she had done this, she came another day into my closet, and there wept very much, and cried out, Oh madam! 'tis he, he is the villain that has undone me, that has ruined me. Why, said I, what has he done? Oh! said she, he hath seduced me to this. Oh, said I, fear nothing, you have done nothing that is ill I hope, but only hearkening to his love. Then I took her about the neck, and kissed her, and endeavoured to comfort her. Oh madam! said she, I have not deserved this kindness from you; but it is he, he is the villain that has undone me: but I will do any thing that you will command me to do, and if ever he send me  
any

any letter, I will bring it to you unopened ; but pray do not tell my father of my faults. I promised her, I would not, so she would but break off all correspondence with him--- [*here she swooned away, and, after recovering, went on*] --- Then my lord Grey's wife, my daughter Grey, coming down to Durdants, he was to go to his own house at Up-Park in Suffex, and he wrote down to his wife to come up to London.---It is possible I may omit some particular things that were done just at such or such a time, but I speak all I can remember in general. My lord Grey, when I spoke to him of it, told me he would obey me in any thing ; if I would banish him the house, he would never come near it. But then he pretended to advise me like my own son ; that the world would take notice of it ; that therefore it would be better to take her abroad with me ; he would avoid all places where she came, but he thought it best for her

her not to be kept too much at home, nor he absolutely forbid the house, but he would by degrees come seldomer, once in six weeks or two months. But to go on to my daughter Grey's coming down to Durdants; he writing to his wife to come up to London, that he might speak to her before he went to his own house at Up-Park; my daughter Grey desired he might come thither, and it being in his way to Suffex, I writ him word, that believing he was not able to go up to Up-Park in one day from London, he might call at my lord's house, at Durdants, and dine there by the way, as calling in, intending to lie at Guildford, for it is just the half way to Guildford. He, instead of coming to dinner, came in at nine o'clock at night, (I am sure it was so much) for it was so dark, we could hardly see the colour of his horses from my lord's great gate, to the place where we were in the house:



house : and coming at that time of night, I thought if I turned him out of the house, my lord would wonder at it, and so would all the family. Therefore I was forced, as I then thought in point of discretion, to let him lie there that night, which he did ; and he told me, “ Madam ! I had not come here, but upon your ladyship’s letter, nothing else should have brought me : ” Because I was to give him leave to to come, knowing the faults he had committed against the honour of our family. Upon which, I told him, “ My lord, I hope you have so much honour and generosity in you, after the promise you have made me, and the confidence and indulgence I have shewn you, that you will give my daughter no letters, and I will look to her otherwise, that you shall have no conversation with her. He desired me to walk up with him into the gallery, and there he told me he had brought no letters, and would have had me  
looked

looked into his pockets. I told him that it would be to no purpose, for his man Charnock, (whom we knew he did not prefer from being his coachman, to be his gentleman; but for some extraordinary service he did him, or he thought he would do him) might have letters enough, and we be never the wiser: but I trusted to his honour and his christianity; and I told him that his going on in any such way would be her utter ruin. He told me he would not stay there any longer than the next day; nay, he would be gone immediately if I pleased, and he sent his coach to London, and had nothing but horses left. But his wife desiring her husband to stay; I had a very hard task to go through: being earnestly prest, both by her, and my own lord's importunities to stay. But my lord Grey, whilst he was there, did entertain me with his passion; he had the confidence to do it, and he wished himself the veriest rake-hell in the world,

world, so he never had seen her face since he was married. And, said he, Madam, you will always think me a villain, and never have a good opinion of me : I shall always be unfortunate both in myself, and in your bad opinion of me. Seeing this, I thought it was time to do something more; and I told him that night he should stay no longer, he should be gone; and his wife seemed to be much concerned, and would fain have him stay; for by this time, she began to find out that there was some disorder in her mother, and the family, though she knew not what it was; and she sent her sister Lucy to beg he might stay: I told her, I would not suffer it: however, she proposed an expedient that her sister Harriet should take physick, and keep her chamber while he was there. That I was in a sort compelled to do, and I told him upon their importunity for his stay, that his sister Harriett should  
be

be seen no more by him, but take  
 physick while he stayed there. To  
 which he replied, " Madam, indeed  
 it is rude for me to say it to you, but  
 I must say it, give me my choice  
 either to be drowned or hanged."  
 Upon this, I was extremely disturb-  
 ed, and the next morning I told him,  
 I was not satisfied he should stay in  
 England; he had ordered his wife  
 to go into France, and she was to go  
 within a month after; I would have  
 him go with her. He told me he  
 had law-suits, and he could not. I  
 told him, he had told me before,  
 they were of no great consequence,  
 and therefore they could not hinder  
 him; and I pressed him very much,  
 and I fell into a great passion at last;  
 and told him, if he would not go,  
 I would tell her father, and he should  
 take care of her, to send her where  
 she should be safe enough from him.  
 For I was sensible the world would  
 take notice if he came not thither;  
 and said I, I am not able to bear you

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should.

should. Upon this, he promised me with all the oaths, and imprecations, in the world, that he would go and follow his wife into France at Christmas, and stay there eight months; and by that time, I did hope this unfortunate miserable business might be over; for I had a great kindness for my child, and would have done any thing to save her, if it had been in my power, or would yet do any thing: I would give my life that the world did not know so much of it as now it must this day. The world knows I had always the greatest kindness and tenderness for her, which was such, that it was my indulgence to her, and not making it known to my lord, that encouraged this last ill business. And thereupon my lord Grey was ordered by me to go away, and he promised me so to do, which was upon a Saturday. I then went up to her chamber, and saw her very melancholy, and did what I could  
to



to comfort her. " But oh madam ! she cried, my sister Grey, my sister Grey, will she forgive me ? " I told her, her sister Grey was good natured and religious, and I made no doubt she would forgive her the folly of her youth ; and I bid her be chearful, and trust in God, and in my friendship ; she was to blame, indeed, she acknowledged, but she was young, and he was cunning, and made it his business to delude and entice her. I told her it was true, and therefore she must now consider with herself, what was to be done to bring her off, which I doubted not, if she would do but as she ought. She promised me faithfully so to do, and yet that very night when I was in my sleep she ran away. [*Lady Berkely swoons.*]

*Court.* When came my lord Grey to my lord Berkely's house ?

*Attorn. Gen.* On Tuesday or Wednesday. The lady went off upon Saturday night ; and now we shall prove that Charnock, my lord Grey's

gentleman, was on Sunday morning at eight o'clock here in London with a young lady, in what habit that young lady was our witnesses will tell you. And others will give you an account what habit this lady went away in, and then it will be seen who she was.---Swear Mrs. Hilton.

*Hilton.* On a Sunday about eight or nine weeks ago, or something more, there was a young lady that came to our house, she came of herself, Charnock was not with her; he came before indeed, and asked if we had any rooms to spare; I shewed him what we had. He went away, and I saw no more of him; afterwards, as I said, she came, but who she was, or what she was, I cannot tell, I did not see her face, nor could I swear to her again.

*Court.* Can you describe her cloaths?

*Hilton.* She had a night-gown on of several colours, I cannot say what particular stuff it was. She had a  
petticoat

petticoat on, red and white. Mr. Charnock's wife often used to come to her; she did not stay long at my house.

*Serj. Jeff.* Now, my lord, we shall prove this young lady to have been lady Harriett Berkely.---Swear Mrs. Doney.---My lord, we call this gentlewoman to give an account what habit she went away in.

*Doney.* I lay in the chamber with lady Harriet the night she went off. She took with her a striped night-gown of many colours; and a petticoat of white and red.

*Attorn. Gen.* Now, my lord, we shall prove that lord Grey was not only aiding and assisting, but a principal agent in this lady's elopement.--Swear Mary Fletcher.

*Fletcher.* I live a servant with Mr. David Jones at Charing-cross; my lord Grey came there in a hackney-coach, the Tuesday after lady Berkely was missing; but first on the Monday, without a periwig, or

any thing of that kind, and desired Mr. Jones to come to the coach-side, which he did, and after a little discourse with Mr. Jones, they came both into the house, and went up two pair of stairs to look upon lodgings. After that, I had orders to make ready the room for some lodgers who were expected to come that night, but did not till the next day. On Tuesday about nine o'clock, my lord Grey comes again in a coach to the door, and threw his cloak over his face, he was then without his perriwig too, and desired to speak with Mr. Jones: I and my fellow-servant standing at the door, he desired to speak with my master. I went to him and told him; and he came up, and after he had been at the coach door, he bid us go down, and keep down in the kitchen, and would not let us come up any more. And afterwards my fellow-servant and I were bid to go to bed, and my mistress would shut up the windows herself.

herself. Then the warming-pan, the candlestick, and other things were carried up into the chamber by my mistress's sister. Says my fellow-servant, "There is some great stranger sure, come to lodge here, that we must not know of." "Ay said I, this is some great intrigue or other." After a while, came in some company that stayed all night. I know not who they were, nor how they came. I was never admitted into the room while they were there, but through the opening of the door, I did see one lady in bed, but I cannot say who she was, nor what she was. [*She is desired to look at lady Harriet Berkeley*] I do not know her, I cannot say that this is she: my mistress and my mistress's sister stood both before me when I just peeped into the room; and when she perceived that, I did see her pull the cloaths over her face. Captain Fitzgerald, a gentleman who lodged in our house, the Monday seven-



night after my lord Grey first came, called me to his bed-side, and asked me, if I knew what lady that was that lodged in the house, and what cloaths she wore, and whether she was young or old, and whether she were married or no. I told him, I could not tell any thing, for I could never see her.

*Serj. Jeff.* Do you know what linen she brought with her? did you wash any for her?

*Fletcher.* Yes, one shift.

*Serj. Jeff.* What kind of shift was it?

*Fletcher.* I said it could be no person of quality by the shift; because the body was finer than the sleeves, and ladies used to make the sleeves finer than the body. I was afterwards shewn a shift of lady Harriet Berkeley's, and upon my oath it was the same sort with that I washed. [*At which there was some laughing*]

*Serj. Jeff.* My lord, we have but one witness more, and that is a gentleman,

man, who, by order from my lord and my lady Berkely, kept my lord Grey company, and he will tell your lordship what my lord Grey confessed to him; what a passion he had for the lady, and what methods he used to get rid of it, but could not.

[Swear Mr. Craven.]

*Mr. Craven.* My Lord, the Wednesday after my lady Harriet Berkely went away, my lady Berkely told me, my lord Grey had proffered he would go down into the country for six months, to shew that he had no design upon her; and therefore, if she would propose some friend of hers to go along with him to keep him company, he would be very well satisfied with it; and then my lady Berkely told me, she would fix upon no body but me, if he would take me with him. Then I met my lord Grey, on Wednesday morning, at Sir Thomas Armstrong's, and afterwards

went down to his house to meet him. When I came there, he met me on horse-back, and came up civilly and kindly to me. I thought fit to give him a caution, having received such orders from my lady. "My lord said I, I am sorry I am forced to come upon such an account as this, to be a guard over your words and actions; and I am very much troubled that this unfortunate thing has happened, and you are reputed to be the occasion of it." Says he, I do own Craven, I have done a very ill thing; but that is past, I cannot help that now; but the thing that is to be thought on is, what is to be done for the future. My Lord, said I, the best way, if I may give you my advice, were to send her home again, before any report be spread abroad of the business. How can that be? says he, I do not know where she is; but I have had a letter from her: as I told my lady, I did believe I should find a letter here  
 215W 20 when

when I came down. I will shew you the letter, which he did, my lord, said I, this letter will be thought as of your own penning before you came out of town. I cannot tell what they will think, said he, but here it is. Said I, my lord, I have a great respect for your lordship; and do very much desire, for your own reputation and honour, as well as others, it may be made up in some way before it is too public. How shall that be done? says my lord Grey. My lord, said I, if you would consent to this, to send her over into France, to Calais, or Dieppe, we will there find somebody that will help her into a nunnery; and when she is there, she may write to her mother; that she found she had an intention to marry her to a match she could not by any means approve. And therefore she went away to prevent her being forced to it; and this would be as plausible a thing as any in the world. And when that letter should

should come, my lady Berkely should shew it about to her friends; nay, more, she should go over herself to fetch her back again, that she might receive her into her house with honour. He said, that was a very plausible thing, and he would do it, if he could tell where she was; but her letter to him was, that she was gone from her father; but she did not think fit to let him know where she was, for fear he should deliver her up again. Then my lord Grey asked me in what condition they all were at my lord Berkely's about it. Said I, they are in such confusion and trouble, they are all mad almost. Says he, how does my lord bear it? said I, he is so afflicted, that it will go nigh to break his heart. Says he, he is indeed one of the men in the world that is to be pittied: she pittieeth him very much; but for her mother she doth not care. One day when we went out a shooting, as we did several days together,

Mr.



Mr. Craven, says he, I will tell you the whole intrigue between lady Harriet and I. I have had a great affection for her ever since she was a child, and having always been taking great delight in her company; and keeping her company so often till she grew up, my passion grew to that height, that I could stifle it no longer; but I was forced to tell her of it, and then I could not speak to her of it, but writ. But withal, I begged of her to take no notice of it to any body; for if she did, it would ruin us both. She was very angry to hear of it; and neither by writing or speaking could I perceive she had any affection for me again, till the parliament sat at Oxford; and then I did pursue my love, and my amours: and at last, she one day said to me, I have now considered of it; and if you do not leave writing or speaking to me of this matter, the very first time you write to me again, I will tell my father  
and

and mother of it. That struck him so, he said, that he did not know almost what to say or do, and he walked up and down just like a ghost; but he hid it as well as he could, that it should not be perceived by others: but that parliament being quickly dissolved, he did intend to go down to Suffex to his house there; being, he found she was resolved against admitting his affection: and he would stay there several years, till he had weaned himself of his passion, and by that time she would be disposed of otherwise, and he might be at ease. And he, hiding his trouble as much as he could from my lord Berkely and my lady, forbore to speak to her; but only when he saw her, he could not forbear looking earnestly upon her, and being troubled. My lord Berkely, not knowing any thing of it, asked him to go to London with them, and not to Suffex; he was very much persuaded by my lord and my lady to do it; and

and at last, my lady Harriett Berkely came to him, and told him, said she, you are very much persuaded by my father and mother to go to London, and not to Up-Park. Why do you not go with them? Madam, says he, you have stopped my journey to London; you have hindered my going with them; for I will rather suffer any thing than render you any disturbance. And if I go to London with you, I shall not be able to contain myself; but if I go to Suffex, I alone shall have the trouble of it. But one day when my lord of Aylsbury was leading my lady Berkely, and my lord Grey was leading my lady Harriett, she took my lord Grey's hand and squeezed it against her breast, and that was the first time he perceived she loved him again; and then she told him, he should go to London with them; and he did go. From that time, for a twelve month before she went away, he did see her frequently, almost every

every night, persuing his amour in writing and speaking to her as often as he could have opportunity. And though my lady Berkely put a French woman to lie with her, yet she did use to rise from the French woman; and he did use to see her. And one day, says he, do not you remember you came to the chamber door, and she was angry at your coming, and that the door was not bolted? If you had come in, you had found me there. And, says he, you cannot imagine, what I have suffered to come to see her: I have been two days locked up in her closet, without meat, or drink, but only a little sweet-meats. He said, he had done all in his power to get the better of a passion, which must bring such infamy upon his own family, and his lady's: that he endeavoured to cool it, by making love to two other ladies, whom he had courted and enjoyed; but all to no purpose. I told him, my lord, besides the dishonour

dishonour which you bring upon yourself, and two noble families, you should do all that lies in your power to avoid the pain and torment which will come upon you for it by the law. Oh, says he, you mistake yourself in that; for I have made enquiry, and find that the law can't touch me.

*Court.* Did he say that he would not deliver her up upon any terms?

*Craven.* He said, I cannot persuade her to return to her friends, and I will not betray her. Truly, said I, my lord, you had better betray her; and when she comes to be sensible of her own good, she will thank you for it. He then owned, that he had her in his power, but would not part with her never to see her again; and this is all I have to say.

*Council for lord Grey.*

And this, my lord, is the last of the prosecutor's witnesses. And because your lordship seems to be somewhat



what satisfied that there is a direct proof of the charge against my lord Grey, I think it will not be amiss to open the fact, and to state the case at large.

*Court.* Come, come; call your witnesses, and make out your defence: we must not have any tedious and unnecessary harangues; we will not listen to them.

*Lord Grey.* Then, my lord, I desire I may be allowed to speak something for myself. Certainly, my lord, no man ever lay under a more infamous prosecution than I now do: and, undoubtedly, if in any case a man may be allowed to speak for himself, it must be allowed to be in such a case as this. My honour lies here at stake, and if my life did so too, I am not, nor would be, more concerned to save that, than I am to clear my reputation, which is, and ought to be, very dear to me. My lord, were I guilty of the crime which has been this day laid to my charge,

charge, I certainly should need no other punishment; I am sure I could not have a worse, than the reflections of my own conscience, and I ought to be banished from the society of mankind. My lord, I must confess, that I have been so unhappy as to have a very great kindness for the unfortunate young lady, my lady Harriet Berkely; but not so criminal as some people would insinuate. I do here protest I have been no ways assisting to her escape, nor have I ever at all detained her from her father; though I have suffered a fortnight's confinement for it. I shall say no more of the justice of my charge. I cautioned my lady Berkely to take care of her daughter; for, 'tis true, I had some suspicions of her intending to run away: and it sprung from this, that my lady Harriet came up to me one day in her father's court-yard, and, said she to me, I am used like a dog; I live the life of a slave here: by the eternal

nal God that made me, I will not be alive long unless I can set myself at liberty. But how could she be in my power, when she was not in my custody, nor in my lodgings? But my crime is, that I knew where she was: and if I deserve punishment for keeping my word and faith with her, which I gave her in a letter, upon her importunity not to betray her; I must submit to it. I could not in honour do otherwise.

Here the council for my lord moved, that my lady Harriet Berkeley herself might be admitted as an evidence in the case; but this was strongly opposed on the part of the prosecutor: however, the judge giving it in favour of the former, her ladyship was sworn.

*Lord Grey's Council.* Madam, we would desire your ladyship to answer, whether my lord Grey had any hand in your escape.

*Lady Harr.* No, sir.

*Attorn.*

*Attorn. Gen.* You are upon your oath, madam: have a care what you say. Consider with yourself.

*Lady Harr.* Yes, I know I am upon oath; and I do upon my oath say it. I had no advice from him, nor any one about him; nor did he know any thing of it: it was all my own design.

*Serj. Jeff.* Did you see my lord the Sunday after you went from your father's?

*Lady Harr.* No, nor the Monday; nor the Tuesday; nor the Wednesday: I can remember the first place I saw him in, but not exactly the time. I saw him first in a hackney-coach at Covent-garden. I sent for him into a coffee-house. I own I writ to my lord: I hope that was no offence. I thought him the fittest person for me to write to; and I did not imagine it would be any ways scandalous to him, he being the nearest relation I had in the world, except my own brother, that could protect

protect me. I writ to him: his answer was very harsh to me. I writ to him again, and I received no answer at all.

*Attorn. Gen.* Pray, madam, do you know Charnock, that was my lord Grey's gentleman?

*Lady Harr.* Yes: but he knew nothing of my escape; neither did I ever see his wife; nor was I at Hilton's or Jones's, upon my oath.

*Court.* Pray then, madam, who was aiding and assisting to your escape?

*Lady Harr.* I shall not give any account of that; for I will not betray any one for their kindness to me: if I have vowed not to discover them before, I will not break my vow. I did not leave my father's house without reason; and I went away from it on another account.

*Court.* If you have no further questions to ask her, --- pray madam sit down again.

*Lady*



*Lady Harr.* Will you not give me leave to tell the reason why I left my father's house? Will you not give me leave to speak for myself? I have been very much reflected upon here to-day, and my reputation suffers very much by the censure of the world; and therefore----

*Court.* You have injured your own reputation, and prostituted both your body and your honour, and are not to be believed.

After this the lord-chief-justice proceeded to sum up the evidence; which he did in a very clear and distinct manner to the gentlemen of the jury; thereby demonstrating, however, that lord Grey and lady Harriet Berkely had had criminal conversation together, and desired them to give their verdict as in that case. As the jury were going to withdraw, lord Berkely spoke.

*Earl of Berk.* My lord-chief-justice, I desire I may have my daughter delivered to me again.

*Court.*

*Court.* My lord must have his daughter.

*Lady Harr.* I will not go to my father again; I am under no restraint. I say, I will not go to my father again. I am married: my husband is here in court.

*Court.* Let us see him---[*one Mr. Turner comes up out of the crowd, and stands by the lady*]---Are you married to this lady?

*Mr. Turner.* Yes; I am so, my lord.

*Court.* What are you?

*Turner.* A gentleman. I sometimes live in town, sometimes in the country; often in Somersetshire. This lady is my wife: I acknowledge her. Here are two witnesses now in court, who can prove it.

*Lord Berk.* I desire the court will deliver my daughter to me.

*Court.* We cannot dispose of another man's wife. However, my lord Berkely, there is your daughter:

ter: you may take her if you please. As for Mr. Turner, if he has any right to the lady, let him take his course. Are you at liberty, and under no restraint? [*to lady Harr.*]

*Lady Harr.* I will go with my husband.

*E. of Berk.* Hussey, you shall go with me.

*Lady Harr.* I will go with my husband.

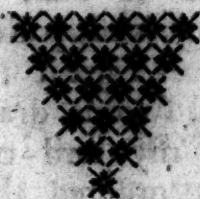
In consequence of the lady's being produced in court, lord Grey was admitted to bail. Then the court broke up: and, passing thro' the hall, there was a great scuffle about the lady, and swords drawn on both sides. But my lord-chief-justice coming by, ordered the tip-staff, who attended him, to take her into custody, and commit her to the King's-bench. And Mr. Turner asking if he should be committed too, the lord-chief-justice told him, he might go with her if he would:

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which

which he did; and, as it was reported, they lay together that night in the marshal's house. And she was released out of prison by order of the court, the last day of Term: and, during the vacation, the matter being made up among the parties, the law-suit was never pursued any further.



**THE**



THE  
T R I A L  
O F

Lady MARY MORDAUNT,  
DUCHESS of NORFOLK,

For Criminal Conversation with  
Sir JOHN GERMAINE, Bart.

Before the  
HOUSE of LORDS,  
In the Reign of WILLIAM III.

THE bill set forth, that  
T Henry Duke of Norfolk,  
and Earl-marshal of Eng-  
land, did, some years since,  
marry the lady Mary Mordaunt; and  
that she had, for divers years, lived



in ſeparation from him; and had unlawful familiarity and adulterous converſation with ſir John Germaine, bart. That ſhe was guilty of adultery on her part, and had broken the bond of matrimony; and foras-much as the duke had no iſſue, nor could hope for any but ſpurious iſſue, to ſucceed him in his honours and eſtates, unleſs the ſaid marriage was declared void by act of parliament, and he was enabled to marry again; he prayed, that the ſaid bond of matrimony might be made void to all intents and purpoſes whatſoever, and that it ſhall be lawful for the ſaid duke to contract matrimony with any other woman, or women, as if the ſaid lady Mary were naturally dead.

*Depoſitions of Eleanor Vanefſe.*

Q. When did you firſt come acquainted with ſir John Germaine, and the duchefs of Norfolk?

A. Sir John Germaine's ſiſter, Mrs. Briane, hired me for a cook-maid,

maid, the summer after the king came to England. I lived two months with my lady duchess at sir John Germaine's house near the Cockpit, and then I went with the lady duchess to Vaux-hall.

Q. What conversation had they with one another?

A. Like man and wife. I saw them often in bed together; though not at first, yet afterwards: and then they kept me within doors, for fear I should tell it. My lady duchess lived at Vaux-hall two years, and sir John Germaine dined there sometimes, and sometimes lay there. They had but one bed. They conversed together as man and wife; and he lay there twice or thrice a week, and sometimes but once.

Q. What name did the lady duchess go by at Vaux-hall?

A. By the name of the lady Beckman, and said sir John was her brother. I lived with her there till she

went to Mill-bank, and nine or ten weeks afterwards.

*Q.* Have you seen sir John and the duchess in bed together at Mill-bank ?

*A.* Yes, once or twice, I undressed them myself, and saw them in bed; and carried them chocolate, and water to wash their hands, in the morning.

*Q.* How came you to leave their service ?

*A.* They sent me away on account of the late trial; and Mrs. Susan, chambermaid to the duchess, and Mr. Nicholas Hofier, gentleman to sir John, went with me.

*Q.* Whither was you ordered to go ?

*A.* To Holland, to the Hague. They paid me in full, and promised me 50 livres besides; which I received in four quarters from sir John's brother Philip, at the Hague. Nicholas Hofier took care of our passage; and they promised, if matters did

did not go for the duchess, that she would come to Holland herself, and take me into her service again.

*Q.* Did you ever see Nicholas Hofier in Sir John's chamber?

*A.* Yes: he did the business that I did, when I could not be there: he was valet-de-chambre. He belonged to the duchess at Vaux-hall, and afterwards to sir John.

*Q.* Who lived with the duchess at Vaux-hall?

*A.* Sir John's sister, Mrs. Briane, and Mrs. Judith, another of his sisters.

*Depositions of Nicholas Hofier.*

*Q.* Do you know sir John Germaine, and the duchess of Norfolk?

*A.* I know them both. I came into sir John Germaine's service first, when he lived in Suffolk-street, being above half a year before king James went away. I lived with him at the Cock-pit too; there was Mrs.

Briane, fir John's sister, and Mrs. Judith Germaine, lived with him.

Q. Did you know any thing of the duchess of Norfolk at that time?

A. She was in the house; and they eat and drank together, and lay together. I was his valet, and used to undress and put him to bed.

Q. Where was the duchess at that time?

A. She was sometimes a-bed, and sometimes not; according as he came home, early or late. I left fir John's service several times: the first time was in Suffolk-street; and I came into his service again the summer after K. William came to England. The duchess was then at the Cock-pit, and continued there after I came, about fifteen days. She dwelt afterwards at Vaux-hall, where she went by the name of lady Beckman. I went with her by fir John's order; and was sometimes with one, and sometimes with the other; sometimes one



one paid me, and sometimes the other.

Q. Did fir John come to Vauxhall: and who lay with him there?

A. He came there several times, and lay with the duchess. I undressed him when they lay together.

Q. In what service was you when you went out of England: and on what occasion did you go?

A. I left fir John's service when the trial was depending between the duke and duchess; because I was afraid I should be obliged to speak what I had seen. Two servants of the duchess's left their service at that time, viz. Susannah Barrington and Eleanor Vanesse: and I was ordered by fir John, to hire private lodgings for them till the wind served for Holland, which was then contrary.

Q. What became of Susannah Barrington?

A. She staid about three weeks with me, and then fir John came

and fetched her away: where he carried her I know not. When the wind favoured we passed the sea. We came to Holland about Easter.

Q. Have you not a paper under sir John's hand for your discharge?

A. Yes; it is dated the 8th of February, 1692, when I left the service; and about six weeks after we went on board: we lodged in the Minorities in the mean time. Sir John gave me seven guineas to defray our expences, and pay our passage. I returned the summer following. Sir John sent for me. I entered into his service again, when he lived at the Cock-pit.

Q. After you came back, did you observe any conversation between sir John and the duchess?

A. I saw them in bed together several times; but the last time was not at the Cock-pit, but at the duchess's own house, where she lives now, about three months before I left sir J. Germaine's service entirely: Eleanor  
Vanessie

Vanessie was cook in the house at the same time I lived there. I have frequently seen her in the chamber when sir John and the duchess were in bed, as I have Mrs. Briane, and Mrs. Judith Germaine, sir John's sisters. I met with Eleanor Vanessie at Amsterdam about a year and a half ago. I came over with her about seven weeks hence; and I put her into private lodgings, because I was afraid somebody would do us an injury. Sir John Germaine came up in a great passion one night, and swore, this rogue Nicholas would betray him.

Q. Was you, or Eleanor Vanessie, spoke to to come over?

A. I met with the duke and my lord Howard in London about a year ago, and they asked me if I would do them a piece of service, and bring this girl (Vanessie) along with me; and I promised them. Soon after I spoke to Eleanor Vanessie about her coming over to speak the

truth; and we agreed to come together.

Q. You say you saw fir John in bed with the duchess in the house where she now lives; Do you know any of the duchess's servants that were about her at that time?

A. Yes: Henry Keemer, and Sufannah Barrington.

Q. Whose servant was you then; and who let you in?

A. I was fir John Germaine's. I had a key of the lower room, and could come in when I pleased; but once I came to bring a clyster for fir John, and was desired to stay a little, while the duchess got up, who was then in bed with him.

*Depositions of William Bayly.*

Q. Do you know fir John Germaine, and the duchess of Norfolk?

A. Yes; I was servant to fir John: three years I wore his livery, and three years I was his steward. I came

came to live with him three weeks before K. William was crowned.

Q. Did sir John and the duchess live together, or keep company together.

A. I never knew them live together, but have seen them keep company together; though I have never seen any incivility between them. The duchess came two or three times to my master's house, and usually in an afternoon, about four o'clock, and might stay there two or three hours: but, by all that is good, I never saw them in bed together. She used to come masked, but put it off when she came into the house. Mr. Keemer and Mr. Carter, two of her servants, used to come with her. Mr. Keemer commonly staid with them till they had dined, and after dinner the other servants and I were in the next room; and when they wanted any body, they called Keemer, or Mrs. Susan Barrington. I have heard, my master used to go to the duchess's



duchess's house; but cannot say positively. I never went with him; but have gone as far as the Horse-ferry.

Q. Did sir John come home to bed at night?

A. Some nights he did, and some he did not. I have carried cloaths to Mr. Keemer, the duchess's servant, for him.

Q. When Mr. Keemer came to you for cloaths, what account did he give you where your master was?

A. He gave me no account. Sometimes my master lay at home, and sometimes he did not: many times he has been at the duchess of Mazarine's from four o'clock one day to twelve the next; and when he has lost his gold, he has sent to me for more. I know Nicholas Hoffer: I saw him just now. I succeeded him, when he went from my master, sir John Germaine, about the time that the trial was here before. Sir John  
sent

sent for Hofier into Holland about a year before he did come over. My master told me, he would send for Nicholas again, and that I and he should have the charge of his house; and when Nicholas came over, we had the play at our own house. Nicholas staid there some time; but he did not like his business, and so he went away again, because he could not have all the money.

Q. Had you no certificate or discharge, when you left your master's service?

A. No: my master was so kind, that he brought me immediately into the Excise, when I left his service.

Thomas Hawksworth *sworn as a witness.*

I came to live with the duchess about October, 1691, and lived with her two years within two months. Eleanor Vaneffe was cook - maid there, and went away the latter end of December or the beginning of January,

January, 1691. She was turned away, to the best of my remembrance, for keeping company with Dutch soldiers. She never was allowed to come higher than the first floor. Frances Knight was constantly in the duchess's chamber, and used to warm her bed.

Q. Did sir John Germaine never come to the duchess's house while you lived there?

A. I never saw him there. I never saw any unhandsome thing by the duchess, while I lived there. I had the privilege of the first and second floor, and sometimes of the lodging-room.

John Peacock *sworn as a witness.*

Q. When you lived with the duchess of Norfolk, did you know one Vanesse, and what was her business?

A. Her business was in the kitchen. I never saw her in any other room but

but the outer room next the street. The work she was employed in was dirty work. I never saw her clean, but nasty; and could not eat the victuals of her dressing.

Q. Do you know when she came to live with the duchess?

A. She came while I was there; and she was turned away on complaint of some disorders, and her ill-dressing of victuals. Men came to enquire for her in the dusk of the evening, and I told her grace, I did not think the house safe; because I had the charge of silver spoons and forks. One of the men appeared to be a foot-soldier, in a blue coat. The duchess turned her away upon these complaints, before the trial, the latter end of December, and one Gosling, the coachman's wife, came in her room. I never heard the name of Hosier before, or saw him about the house.

Frances

Frances Knight *sworn as a witness.*

I lived in the duchess of Norfolk's family twenty-seven years, and upwards. I lived with the duchess's mother, the lady Peterborough. I knew Vanesse very well; she was in the kitchen.

Q. Did you use to be in the duchess's bed-chamber, and about her person?

A. Yes: I was the first in the morning there, and the last at night, constantly. Vanesse was in the kitchen. She was not fit to come into the duchess's chamber, on account of her cloaths. My lady put her away, because soldiers came and asked for her, and sent for her to ale-houses at ten o'clock at night. My lady would not keep a servant that kept ill hours.

Q. Was it before the trial she was put away? Consider well what you say.

A. Yes,



*A.* Yes, she was. I speak my conscience here before the lords.

*Q.* Did you never know Vanesse come into the duchess's chamber, or undress her?

*A.* Never; never: oh fie! never indeed.

*Q.* After the duke parted with the duchess, where did she go to live?

*A.* She lived at Mill-bank. No where else that I know of.

*Q.* Where did the duchess live before she came to Mill-bank?

*A.* She lived at Vaux-hall; but I did not live with her there. I broke my leg, and was brought to her mother's, and staid there a twelve-month. Mr. Peters was my surgeon: he can tell it. I came here to speak the truth.

*Q.* Don't be angry. When left you the duchess, after she parted with my lord duke?

*A.* I left her at Mill-bank.

*Q.* Do

Q. Do you know the question. When did you leave the duchess after she parted with the duke?

A. I know no such question as you ask. I speak the truth as well as I can.

Q. You went away lame you say. Where did you come to the lady duchess again?

A. At Mill-bank.

Q. Was you ever with her at Vaux-hall?

A. I was not there, because I was lame.

Q. Was you ever at Vaux-hall?

A. I told you I broke my leg.

Q. Was you ever at Vaux-hall, or not?

A. I tell you I was lame. I tell these noble lords every word I speak is truth.

Q. When did you see Susannah Barrington?

A. About three weeks ago she received a letter from Flanders, telling her her mother was dead.

Where-

Whereupon I desired my lady to give her leave to go to Holland; and she is there.

Q. Did you ever see sir John Germaine at the duchess's, or at Millbank?

A. No, never; nor did I ever know sir John Germaine keep company with the duchess; only with the duke at his house in the square. I speak in the presence of God.

Mr. Robert Welbourn, *sworn a witness.*

He deposed, that Mr. L'Estrange told him, he heard Nicholas Hosier speak very hard, ill words against his master sir John Germaine; said he had used him ill, and he deserved to be ill used; and the time would come when he should repent it. L'Estrange, being kept out of the way, as was supposed, by the duchess, was the occasion of examining Welbourn as to what he said.

Eleanor

Eleanor Montfort, *sworn.*

She desposed, that her husband, who had been executed for coining, was very intimate with Nicholas Hofier : that he told the deponent just before he died, that Hofier had a design to rob his master ; that he knew where his gold and jewels lay, and had made false keys, and would watch his opportunity, when his master was at play, or out of town. That Hofier left the keys at the deponents house, and her husband ordered her to deliver them to Hofier, which he did after he was dead ; and Hofier looked mightily out of countenance when he received them.

The council for the duchess, having finished their evidence ; the duke's council desired to call witnesses to support Nicholas Hofier's reputation, which was accordingly done. And a day being appointed by the commons for the committee to proceed

proceed in this cause; the duke published the following papers in the mean time.

If want either of precedent for a parliamentary divorce, before going through the tedious and ineffectual methods of Doctor's Commons, or of demonstration of fact, have hitherto deprived the duke of Norfolk of that relief against his wife's adultery, which the divine law allows; the late statute made in the like cause, and the coming in of two, who, while the duke's former bill was depending, had been sent away to prevent that discovery which they now make, cannot but be thought to remove all objections against an act of parliament, not only for the benefit of the duke, but of the public, as a means to preserve the inheritance of so great an office, and honours to persons of the true religion.

The reputation which the duchess had maintained of wit and discretion,



tion, made it difficult for many to believe that she could be surprized in the very act of adultery, as had been formerly proved. And though it then appeared, that one Henry Keemer lived with the duchess, while she went by a feigned name, at a house hired for her at Vaux-hall, by sir John Germaine's brother; and that Nicolas, who then lived with sir John, used to receive word, sent from the duchess to sir John's house by the cock-pit; the withdrawing of Nicolas, and carrying with him the Dutch maid, equally entrusted with the secret on sir John's side; left no evidence of their constant conversation but Keemer, since dead, and Susannah Berrington, who had the like trust from the duchess.

Keemer, though very unwillingly, some years since confessed his living with the duchess at Vaux-hall, where he pretended she was obliged to conceal herself for debt, and what share Susannah had in the secret,

was

was unknown till Nicola appeared. Nicola, coming into England some time since, in expectation of a service, expressed his readiness to discover what he knew, and to endeavour to bring with him the Dutch maid.

She proves, that, for two months, the first summer after the king came for England, sir John Germaine, and the duchess lived together as man and wife, and were seen in bed together by her, Mr. Briane, and his wife, sir John's sister. And that Nicholas Hofier, sir John's valet-de-chambre, used to be assisting to him, as the duchess's woman, Susannah Barrington, was to her, at going to bed and rising.

She proves the like conversation at Vaux-hall, and the duchess's house at Mill-bank; while the duke's first bill of divorce was depending, within which time Nicholas Hofier, by sir John's order, carried away her and Susannah Barrington, with in-

tention of going for Holland, to prevent their being examined to what they knew; but the wind proving contrary, they could not go till the bill was rejected, and then sir John fetched back Susannah, who was most useful to the dutchess; but Hosier went to Holland with Ellen.

Nicholas Hosier confirms Ellen's evidence in every particular; and besides the persons mentioned by Ellen, as privy to sir John's lying with the dutchess, names sir John's brother Daniel. Nicholas having been found very trusty, his master sent for him to return to his service, and gave him the opportunity of proving the continuance of the same adulterous conversation at several times and places, from the summer, 1692, to the 26th of April, 1696. He swears he had after his return to sir John's service, seen them in bed together at sir John's house at the Cock-pit; and at the dutchess's house at Millbank,

bank, and where she now lives, and used to be let into the duchess's apartment by Susannah Barrington or Keemer. Nor can any man who shall read the testimonies given Mr. Hosier by sir John, by the last of which it appears that he served him faithfully as his steward, reasonably question Hosier's credit.

Another who had been advanced by sir John, from his footman to Mr. Hosier's place; and from thence to a good office in the excise, very unwillingly confirmed the testimony of Hosier, and the Dutch maid; not only as to the time of their going from the service of sir John and the duchess; but, being no foreigner, he could not so easily be sent away to prevent discovery; and therefore was not let so far into the secret as Hosier and the Dutch maid; yet he swears the duchess used to come masked to his master's house; that he has gone with 'him as far as the horse-ferry towards her house,

at Mill-bank; that then his master lay out sometimes all night, and the next morning he has carried linen and clothes for his master to Keemer's house, or Keemer has fetched them from him: and this he proves to have been since the rejecting the former bill; and about five years since, when he was succeeded by Hosier, as before he had succeeded Hosier.

And if sir John's vanity should prevail with him at least, it is to be presumed, that his relations would be more just to him, and the lady, than to suffer any thing to pass against them, which they could with truth and justice prevent.

But since none of them appear, the world will believe their absenting more than a thousand witnesses, in confirmation of what Mr. Hosier, Ellen, and Bayley have sworn, whose evidence not only stands untouched by any thing offered by the duchess's witnesses, but is plainly confirmed by them in the principal parts.

A little



A little before the main question about passing the duke's bill, the duchess's agents handed about a paper, wherein they endeavoured to shew the hardness of her case; the first part of which being already inserted in the beginning of those proceedings, I shall give the reader here only the latter part of it.

The duchess thought herself under a necessity of complying with all the orders of the house of peers; and accordingly, as well as she could, made her defence, though less than a week's time was allowed for her doing it; and upon examining the evidence of the duke's witnesses, many contradictions appeared, some whereof follow, as doth appear by the dispositions taken in writing; and now remaining in the house of peers.

For Hosier the footman, swears the duchess was at the Cock-pit, when, and before, he came to live with sir John Germaine, and that

he continued there fifteen days after ; and that after the duchess left the Cock-pit, she went to Vaux-hall.

Vanessè, the cook maid swears, Hosier came to sir John when the duchess was at Vaux-hall.

Hosier swears, that the 8th of February, 1692, he left sir John's service, when the trial was between the duke and duchess in parliament ; and after lived privately six or eight weeks, till he and Vanessè could get to Holland, and arrivèd there in Easter following.

And yet in another place, he swore he desired leave to go, and afterwards, that he also went for Holland as soon as the wind was fair.

But note, all the evidence was closed, and ordered to be summed up the 9th of February, so that he needed not afterwards to have gone. And whereas he insinuates, that he and Vanessè were secreted, and kept from being witnesses.

Note,

Note, it doth no where appear that either he, or Vanesse, were ever thought on for witnesses. Hosier swears he returned again to sir John, in the summer, 1692, being often sent to by sir John. Whereas Bayly, another of the duke's witnesses, swears he did not return again to sir John in two years after he went away; Bayly the witness being all that time and three years before a servant in the house.

Note also, that this very summer, 1692, to wit, in Easter Term, the duke brought his action against sir John, which was tried Michaelmas Term, 1692, at which time it had been more likely if sir John had believed he could have done him any harm, he should have kept him in Holland, rather than have sent for him over; especially, considering that this fellow afterwards swears that sir John swore in a rage, the fellow would betray him. Hosier being asked who sent for Vanesse over; he

answered, that after he had promised the duke and lord Howard to speak the truth of what he knew, they desired him if he met Vanesse, to desire her to come over, and speak the truth of what she knew. And being asked how long after he met Vanesse; answered, about twelve months since. And being asked, when was the first time he spoke to her about her coming over to speak the truth? Answered, it is about a year since. And being asked, how long it was since they resolved to come over; answered, twelve months.

Vanessè being asked; whether she was not sent for from Holland to be a witness? answered, she knew nothing of it till eight or nine weeks ago.

Vanessè swears, she was sent away on account of the trial.

Whereas Peacock, Hawksworth, and Knight, three servants of the dutchess's, swore the dutchess turned her away before the trial, for keeping company with Dutch soldiers;  
And

and they do swear a new cook-maid came there before the trial.

Hosier swears, he had a key of the door going into the Park, and could come in when he would; and yet owns he knew but two of his servants, one whereof is long since 'dead.

And also the duchess's servants swear, they never heard any body had a key; and that if any key had been, they must have known of it. They also prove the shutting up, bolting and chaining the door every night, and opening it every morning; and but one of the servants remembers ever to have seen him at the door; and then he rung the bell; but came only to see a country-woman of his, and to carry letters to Holland, and brought answers back to her; but was not admitted beyond the passage.

Hosier and Vaneffe swore, they saw the duchess and sir John in bed together at Mill-bank.

The duchess's woman swore, she



had put the duchess to bed, and taken her up, every night and morning for several years, and never saw him in the house. And two others swear, they were constantly in waiting, night and morning, and positively deny any knowledge of any such thing; and say, they never saw Hosier there; and that Vanessa was never admitted up stairs, she was so dirty a creature, much less to dress and undress the duchess, as she pretended often to have done.

These are some of the many plain contradictions and disproofs of these evidences, besides the great improbability in their own nature, in several things sworn.

After all these proceedings, the cause was at last heard by the council on both sides, and these being withdrawn, the committee proceeded upon the bill clause by clause, and went through it, and ordered the same to be reported. Whereupon the bill was passed.

THE

THE  
C A S E  
OF

RICHARD LYDDEL, Esq;

For Criminal Conversation with  
LADY ABERGAVENNY.

THE jury being sworn to  
try the issue between the  
right honourable the lord  
Abergavenny, plaintiff, and  
Richard Lyddel, Esq; defendant,  
upon an action of trespass; for that  
he, the said Richard Lyddel, did  
carry on a criminal correspondence  
with the plaintiff's lady, by which  
means he did debauch, carnally  
know, and committed adultery with  
her,

her, to the great loss, disappointment, and meanness of the plaintiff.

The council for the plaintiff, having learnedly opened the circumstances of the offence, and peculiar aggravations attending it, with regard to the defendant, proceeded to call the witnesses, who deposed as followeth.

Elizabeth Hopping, deposed that she lived in his lordship's family for six years, and about three weeks before Christmas was twelve month, taking notice of Mr. Lyddel's frequently kissing her lady in the dressing-room, thought the familiarity was too great betwixt them, and unbefitting, which gave occasion to her to watch their conversation ; that she had often seen her lady's bed tumbled, when none but Mr. Lyddel and her lady had been in the room : another time, knowing them to have been in the dining-room about nine in the morning, was willing to see what they

they were doing, and placing herself in the with-drawing room, she looked through the key hole in the parlour, and saw her lady against the door that went into the hall, and Mr. Lyddel against her; her lady's petticoats were up as high as her garters, and his coat unbuttoned, but could not see his breeches down, because his coat covered them; that she saw him doing something that a man ought not to do. Being asked what she thought he was doing; replied, she thought he had a criminal conversation with her lady, and being surprised, she looked a second time, and saw them in the same posture. Then she went and told the laundry maid that she had seen her lady with Mr. Lyddel against her, with her petticoats up, and that she thought he was debauching her lady. Being asked whether she thought they were in criminal conversation together both the times; she said she believed they were. Being asked what

what was the ground of her suspicion; she replied, she saw him often kiss her in the bed-chamber, dining-room, and dressing-room. Being asked how Mr. Lyddel was received by his lordship when he came there? She replied, his lordship always received him very joyfully; that Mr. Lyddel came very often, and staid there sometimes a week together; that he lived from his lordship's house about seven miles. She being asked, why she did not acquaint her lord with it? Replied, she thought her lord would not believe it; but that she told her fellow servant, Elizabeth Letchmore, and that she told no other servant of it. Being asked, how it came to pass when she saw so notorious a fact, that she did not discover it presently to her lord? Replied, that she dared not open such a thing to his lordship, till her lord asked her about it.

Elizabeth Letchmore deposed,  
That her fellow-servant came to her,  
and



and told her, three weeks before Christmas was twelve-month, that her lady was a devil: that she asked her the reason; she then told her she looked through the key-hole, and saw her against the door in the parlour with her petticoats up; and Mr. Lyddel before her; that this was about nine in the morning. Being asked, whether she discovered it to any body? Replied, she told Mr. Osman of it.

Pinches, deposed, that the observation she made, was when Mr. Lyddel came to her lady, about a twelve month ago; her lady gave her orders to go out of the room when Mr. Lyddel came; that the bed was unmade when he came, and when she went up to make it, she found the door was locked; that when her lady gave her notice of it once or twice, she kept out of the way. Being asked, whether it was usual for her to leave the room when visitors came to the lady? she replied, that she never

never did when she was making the bed; and that visitors never came into her lady's chamber, but into the dressing-room. Being further asked, whether, when her lord was at home, she never saw my lord and Mr. Lyddel in my lady's chamber together? Replied, she never knew them together there.

Mary Hodson, deposed, That she lived two years with the lord Abergavenny in town and country both, as a laundry maid; that as she stood at her window, facing her lady's dressing-room, she had seen Mr. Lyddel take her lady by the pinners and kiss her; that when he pulled her lady away, the window-shutters were one quarter or half shut too, that she had observed this several times very plainly. Being asked, how long after he hath kissed her lady, that she hath observed the window-shutters to be put too? Replied, about a quarter of an hour. Being asked, whether these obser-

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uations were made in town ? She replied, yes.

William Smith, deposed, That being porter to my lord Abergavenny, he was ordered by his lady, whenever Mr. Lyddel came to admit him ; that she would not be at home when Mr. Lyddel was there ; but when Mr. Lyddel was gone, his lady would be at home to any body that came ; that Mr. Lyddel was always admitted, and that was his direction. That when Mr. Lyddel hath been at his lordships, his lordship and he have gone out together, and he hath returned again before him, and gone to his lady's apartment. That Mr. Lyddel, and a gentleman have dined together with his lady, went out together, and Mr. Lyddel has returned again and staid with his lady two hours ; that when he came, he used to ask him, whether his lady was at home ; and if the footman hath been out of the way, he hath waited upon him himself

self to his lady's apartment ; that he was always admitted ; when his lord was at home, he would go to his lordship's apartment, and afterwards from his lordship's, to his lady's. Being asked, whether he ever knew him denied when his lord was at home? He replied, he never did.

Mr. Matthews, my lord's gentleman, deposed, that he had a great many suspicions of a criminal correspondence between Mr. Lyddel and his lady ; he had taken notice she would order none to be let in but Mr. Lyddel : that one evening his lady said, she would be at home to none but him ; that he went up and found none but Mr. Lyddel there with his lady, and only two candles burning ; then he went and brought up two others, that there might be light in the room, that when he came to go into the room, the door was fast ; that he heard his lady run from the couch to the fire-side, which is about six feet ; she opened the door, and

and said, you fling the door so hard, you will make the bolt fly; that when he came in, he saw Mr. Lyddel upon the couch, as if he were putting up his breeches; that he had since flung the door several times, and found the bolts not to fly. That when he went into the country, he had several pair of leases to engross for his lord's tenants; that the apartment he writ in, was under Mr. Lyddel's room, called the white room; that one morning, October 13th, he heard the voice of a man, and presently heard the white-room bed crack. Upon which, being in a great surprise, was resolved to see who came out; that he went half way up the great stairs, and saw Mr. Lyddel coming out, who desired his servant to be called to him. That running as hard as he could, he met one of his lord's servants, and desired him to send Mr. Lyddel's man up to his master, after which he went up the back stairs through the long gallery,



galleſy, and ſaw his lady come out very red, and diſordered, and thought ſhe came from Mr. Lyddel's room. Being aſked, whether he afterwards met with her, and in what room? Replied, that the next morning the 14th of October, about nine o'clock, he heard a woman come in after the ſame manner, and heard the ſtep of a man, and the bed crack, as the morning before; then he went up the back ſtairs, and at the end of his lord's gallery, he took off his wig, and laid himſelf down, that no body might ſee him; that he heard the bolt of Mr. Lyddel's door open; then he ſaw Mr. Lyddel come out of his chamber-door looking about him, and going in, immediately his lady came out, with her hands ſpreading her petticoats; but when he ſaw her, he got up with a book in his hand, as waiting his lord's getting up in the morning, which was his known practice; that then his lady went into her dreſſing-room.

room. Being asked, why she held her petticoats after such a manner? Replied, because Mr. Nevell, that was in a room hard by, should not hear the rustling of her silks. The next day being from home, could make no observation. That on Thursday, he heard the same noise in the white room, after the same manner as he had done before. In the afternoon of the same day, he acquainted Mr. Osman, his lord's steward; for he said, he could not bear to see his lord injured after such a manner. That on Friday, as he was writing again, he prevailed with Mr. Osman to be present with him, and when they were together, he asked Mr. Osman, whether he did not hear somebody come in? He said, yes; and in a little time they heard the bed crack; that this deponent, said to Mr. Osman, in a little time you will hear the bolt of the door make a noise, and so it happened; for they being at the great stairs

stairs; Mr. Osman told him, he heard it very plain, and saw the lady come out of Mr. Lyddel's room, with her petticoats held up in her hand as she used to do, to prevent the gentleman that lodged by her from hearing her. On Saturday morning, this deponent, and Mr. Osman, heard and saw as before. Being asked, what method he took in order to have it discovered? Replied, that he discoursed with Mr. Osman, and they had consulted what method they should take; that several mornings they had those consultations, further, that they acquainted Mr. Day with it. It being asked, what conclusion they came to? He replied, it was agreed upon, that their lord should know of it some way or other. They proposed the discovery should be made by his lordship's mother; but she was under a great deal of concern about it, and desired somebody else might do it; then they thought no person so proper

proper as Mr. Day to do it, who is a neighbour and relation of his lordship's. Mr. Day accepting of the proposal, did communicate it. Being asked, when it was communicated to my lord, what answer did he give of what his lordship would do? He replied, that Mr. Day told him, that his lordship was willing that he should surprise them in the very act. He gave this direction to Mr. Day, and Mr. Osman.

The method that we took was, that Mr. Day, Mr. Osman, and myself, were to conceal ourselves in a closet adjoining to the room where Mr. Lyddel lay; and on the 8th of November last, about six in the morning, we all placed ourselves there: and we staid there till about nine, at which time her ladyship came into Mr. Lyddel's room, went round it, and was heard to say, with a low voice, "I cannot stay with you now;" upon which Mr. Day and Mr. Osman, thinking her gone, were



were for going away : but this deponent acquainted them, that she was prevailed with then to stay ; and he listening very close, heard a noise ; upon which they all went together into the chamber, and, coming softly to the bed-side, withdrew the curtains ; upon which Mr. Lyddel cried out, O God ! That the deponent saw her ladyship in a very indecent posture, who, in a great surprize said, “ Dear Matthews, do not ruin me : ” upon which he said, he was very sorry for what was done. She repeated it again, “ Do not ruin me : ” he told her, that he was sent by his lord’s direction, and, that he must be true to his lord. That Mr. Lyddel, in his surprize, seemed not to have heard what was said, and therefore cried out, “ What do you say ? ” This deponent answered, “ Sir, I thought you would not have been guilty of so foul an act. ” And Mr. Osman saying to him, “ For you,

fir,



fir, to come so frequently, in such  
 a shew of friendship, and to wrong  
 his lordship after such a manner as  
 you have done, is a crime for which  
 you can make him no satisfaction;  
 that Mr. Lyddel replied, It is very  
 true, I can make no satisfaction.  
 Then he said, he would take horse  
 and ride away, and never return to  
 his lordship's house any more. Then  
 Mr. Osman said to him, it was his  
 lordship's direction that he should be  
 kept there. This deponent being  
 asked, what room this was in? Re-  
 plied, that it was Mr. Lyddel's  
 room; that they lay cross the bed  
 when they opened the curtains. Be-  
 ing asked, how many days Mr.  
 Lyddel was at his lordship's at this  
 time? He replied, that he came the  
 7th of November. Being asked,  
 who he received his instructions from?  
 He replied, from Mr. Day and Mr.  
 Osman, and that his lordship in his  
 instruction, said to them, when he  
 went to bed, be sure when ye come  
 Vol. I. F into

into the room; and if you find my wife there, I desire she may be used tenderly; that this was over night; and they were taken together at nine o'clock the next day. Being asked, what directions his lordship gave with respect to Mr. Lyddel? Replied, that in case we took them together in the manner we found them, that then I should come to town, and give orders to Mr. Staples, to proceed against him according to law. Being asked, what was to be done with Mr. Lyddel in the meanwhile? Replied, that his lordship gave directions to secure him in the house till further orders. This deponent being asked, whether he went to London after this? Replied, yes; and went to Mr. Staples, and made affidavit of what he saw; upon which, there was a process taken out, which the deponent delivered to the sheriff's bailiff, and was executed on monday morning: that then he supposes he was carried away to the county

county gaol. Being asked, what orders were given about his lady's going? He replied, that he had no orders about her, but she went away on the Saturday after the discovery, very big with child.

Mr. Osman, deposed, that Mr. Matthews came to him, and expressed himself much concerned, with relation to the intimation he had observed betwixt Mr. Lyddel and his lady; and said, that Mr. Lyddel had abused his lord, by laying with his lady; and gave this deponent several instances of it (as before mentioned in his evidence) and that he went himself to Mr. Matthews's room as desired, and heard and saw the same two mornings together. That he was very much concerned and surpris'd at the observation of these passages, and to find his lord abused after so gross a manner; for he believed, that his lordship was as tender a husband, and had as great a value for his wife as any person in the

world; that none could be more fond; and though they knew it would be a great affliction to their lord, were, notwithstanding, resolved to acquaint him with it; for they could have no peace in their consciences while they kept it as a secret from him; to which end Mr. Day was acquainted with it; he accepted of the office, and acquainted his lordship with it on the sixth of November last, after this manner: he desired his lordship would be pleased to walk in the fields with him, for he had something to communicate to him; but his lordship being very pressing to know what it was, Mr. Day opened it to him; his lordship was extremely concerned that his friend had done such a thing, and said, he could not have done so to him. Then his lordship gave directions to make a discovery, which was after this manner: we proposed early the next morning to go into a closet that joined to the room where Mr. Lyddel lay,

lay, which we accordingly did: that this deponent being placed against the closet door could see the room, and had such a command of it, that no body could go in or come out, but what he must see; that a little after eight o'clock, Mr. Lyddel's man went into the room, and as he was coming out his master, being in bed, says to him, are your razors ready, for I shall shave myself by and by? Then the man went out of the room, and at nine o'clock his lady came along the gallery to Mr. Lyddel's door, and entered his chamber, that he saw her through the key-hole, when she came against it she made a stop, and then went to Mr. Lyddel's bed-side, and said something to him; then she returned, which made this deponent conclude she was gone quite away; likewise Mr. Day said she was gone, but Mr. Matthews was of another mind, and went and opened Mr. Lyddel's door, and stept to the bed



and undrew the curtains of the bedside, and said, So then! the lady was lying upon her back across the bed, and her cloaths by that time this deponent came were down to her knees, that he saw her legs; and then Mr. Lyddel had nothing but his shirt on; that she used several expressions in great surprise, 'I shall be ruined;' but we told her we were there by his lordship's direction: that Mr. Lyddel raised himself up, and said, 'What is the matter? I have heard nothing you have said.' This deponent said, 'We come to observe the vile treatment you have used towards my lord, and for this you can never give his lordship satisfaction.' He said, it is very true, I will take my horse and go away, and never return more; upon which, this deponent said, you had as good stay while you are here. Being desired to give an account of the friendship which was between his lordship and Mr. Lyddel, he said, that the friendship was very

very great, that his lordship always received Mr. Lyddel with a great deal of pleasure and satisfaction; that there was as good a provision made for him by his lordship, as for any body that came to his house, that it was his opinion that his lordship's secrets were communicated to him, and that he never knew of greater friendship and intimacy, than there was betwixt his lordship and Mr. Lyddel. Being asked, when her ladyship went away after the discovery? He replied, she went away at three o'clock on the day of discovery, by his lordship's order, to general Tatton her father.

Mr. James deposed, that, at the desire of the lady, he went into Mr. Lyddel's room on Saturday morning, on the eighth of November last, after the discovery was made; that when he came into the room, he found Mr. Lyddel in great confusion and disorder, saying, 'I am a vile wretch; for God's sake do not speak

to me; for God's sake do not speak to me.

Mr. Day deposed, that he was his lordship's steward, and took care of his estates in several counties, that he observed the intimacy between his lord and Mr. Lyddel, and in his esteem his lordship was the greatest friend Mr. Lyddel had in the world; that there was as entire a friendship betwixt them as ever was amongst men, and that their mutual respect for each other was so very strong, that this deponent was surprised when Mr. Matthews let him into some of the secrets of his lady and Mr. Lyddel's intimacy, the first of which was about the month of march last; that he could not conceive that Mr. Lyddel would be guilty of so foul a crime, when he knew the intimacy that was between his lord and him; he could not give credit to those reports, till the account they gave him of the observations they had made in the five mornings;

ings; that then this deponent did believe it, and that they fixed upon him to discover it to his lordship, which he did upon the sixth of November; that he asked his lordship, whether, considering the great affection he had for his lady, he could bear the discovery of it? that this deponent proposed the method of the discovery which his lordship approved of, and what he did was by his lordship's orders.

The council for the defendant acknowledged, that a verdict ought to be given against the defendant, but used divers arguments for mitigation of the damages, as that the damages ought to be proportioned to the circumstances of the person offending; that it lies before the jury, to give more or less, according to the circumstances. That the defendant's estate, is only an estate for life, and under great incumbrances. Another argument was offered, that this action was not laid for an assault in



debauching the plaintiff's lady, but for destroying the health, satisfaction, and comfort of the plaintiff; that from the time the fact was committed, to the time of her death, was so short, that the injury his lordship sustained in his health could not be very great. Another argument was the lady's coming into Mr. Lyddel's chamber, by which means she became a temptation to him, and was a temptation hard to be resisted; that this fact between Mr. Lyddel and the lady, might have been as well prevented as discovered, if they had thought fit, but that it seemed as if an agreement was made to lay a snare and temptation to draw him into a criminal action. Another argument was, that his present affliction is a great punishment to him; and that even the witnesses for the plaintiff say, that he thought himself the most miserable wretch living; and if so, then what must his affliction be now? That he ought to be



be considered as a very unfortunate and unhappy person; upon which account there is no reason to charge so much damages, as to be the total ruin of him who is miserable enough already.

Several lords and gentleman appeared to his reputation, who gave him the character of a very civil, modest, well-bred gentleman, and could never have thought he would have been guilty of any thing of this nature. There were several mortgage deeds produced in court, upon the estate of the defendant, amounting to eleven thousand pounds.

The council for the plaintiff in their reply urged, that the damage ought not to be calculated from the time the fact was committed to his lady's death, the consideration of the damages ought to regard futurity, that when once the ties of mutual love are broken, they can never be repaired; and if they had not been detected, they might have gone on

with impunity. As to the plea made use of, that his estate is not capable of paying large damages: a case was mentioned of a footman, for the like crime, who was fined five thousand pounds: for it is but reasonable, if a person destroys the happiness of another, his happiness ought to be disturbed as long as he lives. There is a standing law against adultery, the adulteress and adulterer too are to be put to death. There is nothing here can make satisfaction, but a pecuniary punishment.

Upon the whole, the jury withdrew, and after a short stay, brought in their verdict for the plaintiff, ten thousand pounds damages.

**T H E**

(which) the plaintiff lost the count.

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of his wife, to his damage of

THE

The council for the plaintiff were

Mr. Solicitor General, Mr. Hargrave

Secondly, Mr. Solicitor General, Mr. Hargrave

and Mr. Solicitor General, Mr. Hargrave

of the defendant were Sergeant

WILLIAM SLOPER, Esq;

For Criminal Conversation with

Mrs. CIBBER.

THE declaration (which was

opened by the junior council for the plaintiff) was for

assaulting, ravishing, and carnally knowing, Susannah Maria Cibber, the plaintiff's wife; and this was

said to be done at three several periods of time, at divers days, between such a day, to such a day, at each period; whereby (the declaration

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tion said) the plaintiff lost the company, comfort, society, assistance, &c. of his wife, to his damage of five thousand pounds.

The council for the plaintiff were Mr. Solicitor General, Mr. Hollings, Serjeant Agar, Mr. Marsh, Mr. Denison, and Mr. Lawson. The council for the defendant were Serjeant Eyre, Mr. Noel, Mr. Lloyd, Mr. Murray, and Mr. Barnardiston.

Mr. Solicitor General (--- Strange, esq;) stated the case of the plaintiff, and, among many other things, observed to the court and the jury, that the injury done to the plaintiff was of the most tender concern to his peace of mind, happiness, and hopes of posterity, and was the highest of all injuries, for which he could come before them to seek a recompence or satisfaction in damages; and, that indeed it was impossible to give a pecuniary satisfaction adequate to the injury: for, that no sum of money could restore a man's tranquility of mind.



mind. But that the plaintiff must rest upon such remedy as the law had given him.

He farther observed (upon the plaintiff's being a player), that it is true, the plaintiff was a player; but he was also a gentleman; being well descended, and having had a liberal education. That the plaintiff himself was a very good player: that his father was well-known to all gentlemen who delighted in theatrical entertainments, to be of the first figure in that profession, and an author too; that the plaintiff's grand-father was the best statuary of his time; and the plaintiff, by the mother's side, was related to William of Wickham, and, in right of that pedigree, had received his education upon a foundation of that great man.

He said, he knew it was attempted by some, to have the players considered in a matter of this nature, as not upon the same footing with the rest of the subjects; as if it were  
more



more lawful to invade their properties, than those of other people; but he knew no law that deprived them of those comforts and rights which other subjects ought to enjoy; that the stage had been cherished and encouraged by the politest and wisest states, as a school of virtue and good morals; and, that many receive good lessons, and impressions, from what they hear at the theatre, who perhaps don't incline to go to seek for instruction elsewhere.

That there had been a good deal of pains taken to spread a report about town, as if the plaintiff had been consenting to the wrong the defendant had done him; but this was only to blast the credit of the plaintiff's cause before the trial; and that it might come with prejudice before the jury. That his brief instructed him, that there could not be the least colour or shadow of proof to support such a surmise.

Mr.

Mr. Solicitor General also stated the evidence for the plaintiff, in part as it came from the plaintiff's witnesses, in the following pages; but as to part of what comes from Mr. Carter of Kensington, it doubtless was never mentioned in his brief. As to the principal facts, he mentioned, the witness, Mr. Hayes's, looking through a hole in a wainscot partition, which parted Mr. Hayes's closet from a room in which the defendant and Mrs. Cibber were together; and, that through that hole Mr. Hayes, at several different days and times, saw them guilty of criminal familiarities, and in such acts, and with such circumstances, and particularly the last time, he, Mr. Hayes, saw such a sight, as he, Mr. Solicitor, would leave to the witness to tell; for it ought to be related but once.

Mr. Hollings also spoke on the same side, pathetically observing, to the gentlemen of the jury, the mischievous

chievous consequence of suffering a man to commit such an injury to the married state, without being obliged to repair it in damages; that the plaintiff was an Englishman, and as such, had rights which ought not to be invaded, particularly in the present instance; that he had brought his complaint before a jury of English gentlemen; and he, Mr. Hollings, did not doubt, that they would give the plaintiff proper damages.

The plaintiff's council then proceeded to call their witnesses. And, first, to prove the marriage between the plaintiff and his wife, they called Mrs. Bretts; but she did not appear at this time.

*Note, She appeared in the afternoon, as will be mentioned hereafter.*

The plaintiff's attorney then named Mr. Cibber, the plaintiff's father, who, being present in court, was sworn.  
His

*His evidence was in substance as follows.*

Q. Do you know of the plaintiff's being married to his present wife?

Mr. Cibber. I was not at the marriage; but I am as well convinced that they were married, as that I was married. I was against the match.

Q. Why were you against the match?

Mr. Cibber. Because she had no fortune.

Q. Did they at first live happily together?

Mr. Cibber. They did live happy, very happy; much happier than I expected; for I was averse to the match.

Q. How long did they live thus happily together?

Mr. Cibber. About three years: within that time they had two children, which are both dead.

Q. Did



Q. Did Mr. Cibber, the plaintiff, during that time, support her well, and liberally, as became an affectionate husband?

Mr. Cibber. He did, even to profusion. I often admonished him about it, and advised him to retrench his expences; for I thought them a good deal too large for his condition, and what he was not able to afford. He made her several valuable presents of rings and jewels.

Q. Is not Mrs. Cibber a good actress? And how did she become so?

Mr. Cibber. When they married, she was a singer; but there were better voices. I thought her voice not the best; and if not best, it is nothing. I thought it might possibly do better for speaking. I asked her husband, if he had ever heard her attempt to speak a part? he said, he had; and that she did it very prettily. I tried her, and was much surprised to find her do it so very well.

Did

Q. Did



Q. Did not her husband take pains to instruct her?

Mr. Cibber. I believe I was the person who chiefly instructed her. I spent a good deal of time, and took great delight in it; for she was very capable of receiving instruction. In forty years experience, that I have known the stage, I never knew a woman, at the beginning, so capable of the business, or improve so fast.

Q. When did you first hear of any disagreement in the family?

Mr. Cibber. Soon after he came from France: about last April.

Mr. Fleetwood, master of Drury-lane Play-house, was sworn.

Q. Sir, Do you know the plaintiff's wife? Is she a good player?

Mr. Fleetwood. Yes, sir, I think her a good player, for her time.

Q. What salary did you give her? What advantages did she bring to her husband?

Mr.

*Mr. Fleetw.* She played three seasons. For the first, her salary was an hundred pounds, and she had a benefit.

Q. What was that benefit worth?

*Mr. Fleetw.* I cannot be particular; because I have not looked into the accounts on this occasion. If I had known I should have been examined on this, I could have been particular. I believe it might be about an hundred pound.

Q. Well, sir, the second year?

*Mr. Fleetw.* The second year, sir, I gave her two hundred pounds salary, and she had a benefit.

Q. What was that benefit worth?

*Mr. Fleetw.* That must have been a good deal better than a hundred pounds.

Q. Then, the third year?

*Mr. Fleetw.* Her salary the third year was two hundred pounds, and she had a benefit.

Q. What was that worth?

*Mr. Fleetw.* I believe it must have been worth a hundred and fifty pound,  
for

for she grew much in the favour of the town; and 'twas a very good benefit.

*Note, The examination to these matters was at first opposed by the defendant's council, as not being supported by the declaration; but the plaintiff's council insisted, that it being laid in the declaration, that by the means there alledged, the plaintiff had lost the assistance of his wife, he had a right to prove the loss he sustained by the defendant's taking her off the stage, and the quantum of that loss: and of that opinion was the court; so Mr. Fleetwood was examined as above. The defendant's council insisted, that nothing here appeared, that the defendant had taken her off the stage; and they cross examined Mr. Fleetwood.*

Q. Sir, how comes it, that Mrs. Cibber don't play this season?

Mr.

Mr. Fleetw. Because we could not agree upon terms. I would not come up to her terms.

Q. What were her terms?

Mr. Fleetw. She insisted to have as good a salary as any woman in the house, and the first benefit.

Q. Perhaps she deserves as much. Is she not as good a player as any in the house?

Mr. Fleetw. I can't say that. I can't pretend to determine that. I have got more money by Mrs. Clive.

*Mr. Quin, Mr. Johnson, and some others were called for this purpose; but the court was of opinion, 'twas now proper for the plaintiff's council to establish their principal fact.*

Mrs. Hayes was sworn.

Q. Mrs. Hayes, pray give my lord and the jury an account of the defendant and Mrs. Cibber's coming to your house. Do you know Mrs. Hopson?

Mrs.



Mrs. *Hayes*. Yes, sir, it was just this day twelve-month, the 5th of December, that Mrs. Hopson came into my lodgings. I live in Blue-cross-street, Leicester-fields; on the Saturday Mrs. Hopson came to my house, and took my lodgings. She beat them down as low as she could; for she said she was a single woman, and should give but very little trouble, she had no body to come after her but a gentleman and a gentlewoman that would come to see her sometimes. She had the lodgings for seven shillings a week, two rooms on the first floor; there was a bed in each room, and one of them a turn-up bed. She was to come in on Sunday, but she sent me word, that she should not come in till Monday; and on Monday, the 5th of December, she came in a hackney-coach, and some boxes and things with her. On Sunday in the evening a young gentleman, whom I afterwards knew to be Mr. Sloper, called, and asked,

G

if



if Mrs. Hopson had not taken the lodgings, and whether she was come? I told him, she had taken the lodgings, but that she had sent word, that she should not come till Monday. She lay there on Monday night. Neither Mrs. Cibber nor Mr. Sloper came that day, but they came soon after; I think it was on Tuesday; and they supped together, and went away between eleven and twelve o'clock. Mrs. Hopson sat up and let them out; and locked the door after them. They often came in the space of six weeks, that Mrs. Hopson had the lodgings: I believe twenty times. They did not come together, but dropping in one after the other. They sometimes dined, but most commonly supped there. Mrs. Hopson used to leave them together every time they came; sometimes an hour; sometimes two or three hours at a time. She often made errands to go out to buy something; and sometimes sat two hours at

at a time below stairs with me, while they were above together. They staid sometimes till one or two o'clock in the morning; and how they went away I cannot tell, for I was in bed at those times: but I believe they usually went in chairs or coaches.

Q. When they were thus alone, did they use to fasten the door?

Mrs. *Hayes*. Yes, the door used to be fast. Mrs. Hopson used to go and knock at it, and they let her in; and sometimes she could not get in, and used to come down stairs again.

Q. How did you know they were Mr. Sloper and Mrs. Cibber?

Mrs. *Hayes*. There was an acquaintance of mine at my house one day, when Mrs. Hopson came down stairs to me, one Mr. Rowe, and he knew Mrs. Hopson. How do you do Mrs. Hopson? says he. So, after she was gone, I asked him who Mrs. Hopson was; and he told me, she was Mrs. Cibber's maid: so I gave her warning, and let my lodgings to an-

other ; for I did not like their coming. Mrs. Hopson did not usually lie there o' nights, except when they had been there in the evening ; but on those nights she did lie there. One day, after I gave her warning, Mr. Sloper was in a great passion above stairs at something, and Mrs. Hopson came to me ; " You have made a fine kettle of fish of it," says she. I do not know what she meant by her kettle of fish. " What fish do you mean ?" says I. " Why, there, says she, you have been talking of matters, and he's stark mad at it above stairs." She would have kept the lodgings ; but I chose not. I let them to another ; and so they went away.

Q. Did Mr. Cibber ever call at your house, and talk with you about them ?

Mrs. *Hayes*. Yes, about five or six months ago, he called and asked me, if Mrs. Hopson had not lodged there. I told him she had. He asked

asked who came to see her, and I described them, both by their cloaths and their persons; so he said no more, and went away.

*Mr. Hayes sworn.*

Q. Sir, give an account of Mrs. Hopson's lodging at your house, and who came to see her, and what happened, &c.

Mr. Hayes. When Mrs. Hopson had my lodging, Mr. Sloper and Mrs. Cibber used to come often to her; and she used to leave them together, two or three hours at a time. They used to go away at one, two, or three o'clock in the morning, in coaches or in chairs. I have a closet on the same floor, adjoining to the room where they used to sit: I bored holes through the wainscot, and could see them very plain. He used to kiss her, and take her on his lap. On the 22d day of December as I was looking through, he took her on his knee, lifted up her cloaths, and took  
G 3 down

down his breeches ; and took his privy member in his hand, and put it between her legs. On the 12th day of January I was locked up in the closet at one in the afternoon : he came first, and he was angry because she was not come ; and he sent Mrs. Hopson for her. In about two hours she came. Mrs. Hopson went away, and left them alone : so he spoke something to her in an angry way about Mr. Fleetwood. She said she would take away her brother from his house, and that she did not value Mr. Fleetwood. He and she grew friends again. They made it up, and he took her upon his lap, took up her cloaths, took down his breeches, and put his privy member between her legs. I staid there longer. Between five and six in the evening he let down the turn-up bed softly, she laid herself upon it, upon her back, and pulled up her cloaths ; her body was bare : he unbuttoned his cloaths, hung his bag-wig upon a sconce,



is a sconce, let down his breeches,  
 at took his privy member in his hand,  
 h and lay down upon her.

in Hereupon some further questions  
 : offering, as to the fact, his lordship  
 ry interposed to this effect; there is no  
 ne occasion to be more particular; we  
 ut are not trying a rape. However, the  
 on witness did say, there was a criminal  
 so conversation; and, being a foreigner,  
 ry he expressed himself as much by  
 id gestures as by words.

Q, Was the chamber locked?

at Mr. *Hayes*. No, it was fastened  
 he with a screw. The holes are there  
 it to be seen in the wainscot and the  
 p, floor.

Q, Who did that screw belong

er to?  
 re Mr. *Hayes*. I believe it was Mrs.  
 e Hopson's. I have seen it in the  
 ed chamber window.

Q, How did you know who they  
 ; were?

ed Mr. *Hayes*. Mr. *Rowe* was one  
 on day at our house, and he spoke to

Mrs. Hopson; and afterwards he said, she was Mrs. Cibber's maid. Besides, I dogged them both home in their chairs. Her chair carried her to Mr. Cibber's house, No. 12. in Little Wild-court, and his chair went to his father's house, in St. James's Place. After he was gone into the house, I asked the chairmen whose house that was; and they told me, old Mr. Sloper's. I had often seen him at the Tennis-court, and knew his name there.

*Mr. Rowe was sworn.*

I was one day at Mr. Hayes's, and Mrs. Hopson came in. I asked her how she did. I had known her for a good many years before; and the last time I had seen her, I had been told she lived with Mr. Cibber. I believe I told Mrs. Hopson so.

*Juryman.* My lord, we would beg leave to call back the last witness, Mr. Hayes, to ask him this question.

Why

Why he took the pains to dog Mr. Sloper's chair, at that time of night, to learn who he was, when he had known him before at the Tennis-court ?

Mr. Hayes being called in again, and the question being put, he answered to this purpose.

As Mr. Sloper and Mrs. Cibber came into my house, I knew them both; because I had seen him at the Tennis-court, and her on the stage: but, to be more certain, I went and followed their chairs, as I told you.

*Mr. Carter was sworn.*

Q. Give an account of Mr. Cibber and Mrs. Cibber's lodging at your house in March last, and whether Mr. Sloper resorted there ?

Mr. Carter. Yes, sir, on the 2d of March Mrs. Cibber took the lodgings, I believe for them all; there were three beds.

Q. Do you remember any thing of Mr. Cibber's going to France,

and whether Mr. Sloper came there during his absence?

*Mr. Carter.* Yes, Mr. Cibber went to France soon after; and Mr. Sloper did lodge there part of the time while he was was absent; and he lodged there again soon after Mr. Cibber came back: and there was a lodging taken for Mr. Cibber at Blue-green, about a mile and a half from Kensington; and after Mr. Cibber, Mrs. Cibber, and Mr. Sloper had supped together, Mr. Cibber had a man with a candle and lanthorn, between nine and ten o'clock at night, to light him to Blue-green. He came back to breakfast the next morning, and every morning; and they dined and sometimes supped together; and he went to Blue-green at night, and Mr. Sloper and Mrs. Cibber lay at my house: but I do not know what beds they lay in. When Mr. Sloper went away from his lodgings back to London, Mr. Cibber left Blue-green, and came and lay at my house.

Q. Who bore the expences of their house-keeping?

Mr. Carter. Mr. Sloper did. Sometimes he gave my wife money to lay out; at other times, my wife laid out what was necessary, and made a bill of it; and Mr. Sloper paid it.

Q. Did Mr. Cibber know this?

Mr. Carter. Yes, sir, it was very often before his face.

Q. Did he offer to pay any thing?

Mr. Carter. No, sir.

Hannah Calcot and Ruth Calcot being severally sworn and examined, had little to say.

They lived at Burnham, in Buckinghamshire, where Mr. Sloper and Mrs. Cibber spent part of last summer. The amount of their evidence was, that Mr. Sloper and Mrs. Cibber lived at the same house at Burnham; they were sure he lived there, because they had seen him walk



abroad in his slippers, and in an undress.

*Fife and Watson being severally sworn, deposed,*

That they and another, in a coach, went with Mr. Cibber to Burnham, in September last, to take away Mrs. Cibber; that they left the coach in a field, and went to the house where she and Mr. Sloper were; that she was in a night-gown sitting at the tea-table, and Mr. Sloper was at the other side of it, in his slippers; that Mr. Cibber said, he came to demand his wife; that Mr. Sloper cursed and swore, and called Mr. Cibber hard names, but suffered one of the witnesses to lead her to the coach, and walked on the other side of her himself; that she gave him a watch out of her pocket, on which he said, "By G-d, well remembered, the rascal would have had it else:" that they drove away with Mrs. Cibber in the coach  
along

along with Mr. Cibber and two of his assistants, the third being on horse-back. That Mr. Sloper soon overtook them ; that he swore there was a villain in the coach, who should never live to go into another ; that they came to Slough, and there Mrs. Cibber, not being well, desired Mr. Sloper (who was at the side of the coach, before the door of the inn) to get a dram ; that Mr. Sloper brought her a glass of rum ; that she was above a quarter of an hour in the coach, before the door of the inn, while Mr. Cibber was in the house, providing for her accommodation : that when Mrs. Cibber was in the chamber in the inn, she called her husband a great many villains, and said, that now he had ruined her reputation, she did not value if all the world knew that she was with child by 'Squire Sloper ; and, that she loved him dearly, for he was an honourable gentleman : that Mr. Sloper took up a room in the

the inn for some time, swore much, and fired a pistol, which one of the witnesses seemed willing to believe was intended at him; but being cross-examined, he did own, that the muzzle of it was elevated so as to point over the stable; and also, that Mr. Cibber and his assistants had two cases of pistols loaded. These proved, that Mr. Sloper went away in the night-time from the inn, which determined Mr. Cibber to stay all night: that he sat up all night himself, and procured a woman to lie in the bed with his wife. She would eat no supper, though there was one provided; for she was sulky. The next day he did not take the direct road to London, but drove a-cross part of the country, and got to London in the evening.

---- Stint was sworn.

*Stint.* Mr. Cibber employed me to take care of his wife, when he brought her to town, that she might not

not be taken away again; and he used her, and provided for her, very honourably, and gave orders at the tavern, the Bull-head near Clare-market, that she should want for nothing; meat was dressed there for her, and brought to her, and wine, a pint of white and a pint of red. She complained, that it was cold weather, and I made her a fire, and locked her up in the room again; but she knocked, and called, and begged, for God's sake, I would let her out, or else she should be stifled, for the chimney smoaked: so I let her out, and put out the fire. Mr. Thomas Arne, her brother, came there, and he begged and prayed, that I would let her go along with him: but I would not break my trust; I could not do it. He came several times, and, finding I would not do it, began to break open the house; and, at the same time, bid her cry out murder: she cried out murder, and I believe there was an hundred

hundred mob assisting him to break open the house. I had a case of pistols, and laid my back against the door; but they were too strong for me, and took my pistols out of each hand, held me by each arm, beat me severely, tore all the cloaths off my back, and took Mrs. Cibber away with them.

----- Applesford, *the Reading stage-coach-man, was sworn.*

This witness proved, that he was hired to carry two ladies and a gentleman, some time in September last, from Slough to Reading. He was to meet them at Slough, and met them accordingly. The gentleman walked out of town in boots, about half an hour before the coach; and when the witness overtook him, he took him in. He knew neither him nor the women.

This witness was paid two guineas for his charges; and several other witnesses from Slough were also paid,  
who



who had nothing to say to the purpose.

*Mrs. Brett was sworn.*

She proved the marriage; and being asked when and where she saw Mrs. Cibber last? She answered, this morning at her mother's.

This last question was asked, because it had been insinuated that Mrs. Cibber at that very time cohabited with Mr. Sloper.

Mr. Serjeant Eyre, for the defendant, opened the defence. And among other things observed, that he believed that this was the first action of the kind, that ever came from the Theatre; that he never heard that it was a place celebrated for virtue: that Mr. Solicitor General had taken some pains to display the plaintiff's pedigree as descended from William of Wickam, who was a clergyman, celibacy prevailed among the clergy; therefore the plaintiff could not be descended in a right line from him. That love is  
the

the most governing passion in human nature; that as it is so, all Theatrical performances abound with it, that they cannot expect to please without it: that a very wise and modest man who hath wrote one of the best plays extant, could not depend on his hero for success; that he was forced to interlard love-scenes, or it might probably have been damned the first night; and this is the Tragedy of Cato. That the hero of this piece, that very Cato, the greatest man of the time he lived in, is recorded in History to have had very free notions of love and matrimony; that he lent his wife to a friend to breed out of her, and when they had done, he took her back again very well contented. That the players are a people who act, and enter into all manner of characters; that their men and women are made to fall in love with each other every day; this day with one, to morrow with another: that  
 this

this practice in variety must give them an uncommon propensity to love, without any confinement of the passion to a particular subject; that it is very likely this enters into their common course of life. That their women learn all the allurements that can engage the eye and ear, and strike the imagination of young gentlemen; they dress, chat, sing, dance, and every way charm unguarded young gentlemen, who are not aware of any ill consequences. That it had already appeared, and would further appear in the course of the evidence; that if there was a suspicion of any thing amiss in the acquaintance between Mr. Sloper and Mrs. Cibber, that the plaintiff must thank himself for it; that the plaintiff had taken pains to bring them acquainted, to live under the same roof, and used to leave them together to improve their acquaintance; that he (Serjeant Eyre) hoped that nothing criminal had passed between

tween them; but if there had, the plaintiff had certainly encouraged it, and had no pretence to come to a jury for damages.

Mr. Lloyd, on the same side, made an excellent speech, which we do not take upon us to give our reader; we shall only mention a hint or two. He hoped (as Mr. Serjeant Eyre had done) that nothing criminal had passed between the defendant and the plaintiff's wife; but if any thing seemed to tend that way; it at the same time appeared that the plaintiff was privy and consenting to whatever intercourse or familiarities there passed between them. That if there had been any thing done amiss with such circumstances (he submitted to his lordship's direction, but) apprehended that the plaintiff had no wrong done him; upon this maxim in law and reason, *volenti non fit injuria*; and that therefore he (the plaintiff) ought not to have a verdict. But that if it should be

be thought proper (notwithstanding such consent) to find a verdict for the plaintiff, it would at least be fit and necessary for the gentlemen of the jury to proportion it to the size of the trespass, which he hoped would be taken in consideration upon this occasion.----He said this, and much more in a far better manner than we can relate it (for a reason already given) and proceeded to the evidence for the defendant.

*Ann Hopson was sworn.*

Q. Did you lodge at Mr. Hayes's about this time twelve month?

*Ann Hopson.* Yes, Sir, I was then out of service. I had left Mr. Ciber's, and intended to follow the business of mantua-making: I was bred to it.

Q. Did Mr. Sloper and Mrs. Ciber sometimes meet at your lodgings?

*Ann Hopson.* Yes, they came to see me pretty often. They desired they



they might come there, and usually had a bit of something to supper.

Q. For what purpose did they meet?

*Ann Hopson.* As they were acquaintance, to converse together.

Q. Did you use to go out, and leave them alone together?

*Ann Hopson.* Yes, I often had occasion to go and buy something for supper, or some tea and sugar; and I had occasion to be below stairs to get supper ready.

Q. When you came up stairs did you use to find the chamber-door fast?

*Ann Hopson.* Sometimes it was so; and Mr. Sloper used to open it to me.

Q. Pray what would you believe was the occasion of these private meetings?

*Ann Hopson.* I will tell you all I know of the matter. I do not fear my character; there are enough in court that will give me a very good character.

character. It was about March was a twelve-month that Mr. Sloper used first to come to our house, to Mr. Cibber's. The servants did not know who he was ; but my master called him Mr. Benefit, and used to say he was a romp, and a good natured boy. Mr. Cibber was then very bare of money, and afraid of his creditors. I was very sorry for it, for he owed me a good deal of money, and does so still. But one day he told me, " Anne, says he, I shall have a good deal of money soon, and you shall have some." And I know he soon after had a good deal of money, and he paid me five guineas. That summer we went to lodge at Kingston, and Mr. Sloper with us. My master used often to leave Mr. Sloper and my mistress at home, and go a riding or abroad, some where or other. The rest of the servants wondered at it as well as I ; but I knew no harm. They

did not know Mr. Sloper's name. My master called him his cousin Thompson. Afterwards, when they came to town, I left the service, and took that lodging. In last spring, about March last, I lived with them again. My master took me aside, and made me promise secrecy concerning something he was about to say to me. He told me he was going to France; that there was an affair between Mr. Sloper and his wife: that he was ruined for ever if it should be publickly known. And he made me promise to live with her till he should come back; that the rest of the servants might not know any thing of the matter. I promised him. They took lodgings at Kensington, and my master went to France in March or April. He was some weeks gone, and in his absence Mr. Sloper was commonly at the lodgings at Kensington. When my master came back, he was at a bagnio in Goodman's-fields, and sent  
word

word to my mistress. Mr. Sloper was not then at Kensington. My mistress and I went to Goodman's-fields in a hackney-coach, and he came back with us to Kensington. In our return we changed our coach two or three times by the way that he might not be discovered. She told him, she expected Mr. Sloper in a day or two. My master said he would take a lodging when Mr. Sloper came, or if there was not time for that, he would go lie at some inn in the town. Within two or three days Mr. Sloper came; and then Mr. Cibber sent and took a lodging at Blue-Green, and after supper about nine or ten o'clock he went there, with a man carrying a lanthorn and candle, and left Mrs. Cibber and Mr. Sloper at the lodgings at Kensington. He came back to breakfast next morning, and dined, and I believe supped, and so he did several days, till Mr. Sloper went away; and then Mr. Cibber paid

off the lodgings at Blue-Green, and came to the lodgings in Kensington to his wife.

Q. Was you at Burnham with Mr. Cibber and his wife, and Mr. Sloper?

*Ann Hopson.* Yes, last summer it was. They three and I looked over the house, that they might contrive in what rooms to lie, and the rest of the servants know nothing of the affair. It was a large house, seven rooms on a floor. Mr. Cibber's bed-chamber, and Mr. Sloper's had a door opened between them. Mrs. Cibber used to undress herself in my master's room, and leave her cloaths there, and put on a bed-gown, and take away one of the pillows from my master's bed, and go away to Mr. Sloper's room; my master used to shut the door after her, and say, Good night my dear; and sometimes he used to knock at their door in a morning to call them up to breakfast, and at other times he sent me  
to



to call them, and the pillow was brought back again; for my master's bed was always made with the two pillows.

Q. Did you see Mrs. Cibber the day she was rescued, and where?

*Ann Hopson.* Yes, I saw her at her mother's Mrs. Arne's.

Q. Was Mr. Sloper there?

*Ann Hopson.* He was there.

Q. What became of Mrs. Cibber?

*Ann Hopson.* I do not know, she went away somewhere. I did not see her till two or three days afterwards.

Q. Did you go down into the country with her afterwards?

*Ann Hopson.* Yes, we went to Reading. Mr. Sloper met us at Slough, and there we went into the Reading coach; Mr. Sloper walked out some time before us, and the coach took him up.

Q. Where was Mrs. Cibber afterwards?

*Ann Hopson.* At Reading with Mr. Sloper, till she came to town about five weeks ago.

*Mrs. Carter (the wife of a former witness) was sworn.*

She gave in substance the same evidence that her husband did before, and that Mr. Sloper used to pay her the money for house-keeping. That when the lodging was taken at Blue-Green, and upon her asking the meaning of it, she had for answer, it was because Mr. Cibber was a mean spirited dog.

Q. Why would you keep such a house?

*Mrs. Carter.* I thought it no business of mine, if the husband consented, and was satisfied.

*Jane Philips was sworn.*

Q. Give the court, &c.

*Jane Philips.* I lived at Burnham, and used to make the beds. There were two pillows on Mr. Cibber's bed,

and only one pillow on Mr. Sloper's; but there was the mark of only one person having lain in Mr. Cibber's bed, and of two in Mr. Sloper's. The bed-chambers opened into each other. I never saw Mrs. Cibber undress, nor do I know who brought back the pillow every morning.

As hath been said with regard to the rest of the council, so as to Mr. Murray, we shall mention but a few hints from his speech.

He observed that the plaintiff by his council, shewed himself related to William of Wickham, but would have been entitled to claim that alliance, if he had observed William of Wickham's motto, that *Morals make the man*: the words are, *Manners make the man*; but *manners* are there intended to signify *morals*.

That, upon the whole of the evidence, the council was afraid, that the plaintiff's wife and the defendant had gone beyond the bounds of duty; but whatever had passed, ap-

peared not only to have been with the plaintiff's consent, but even to have been concerted by him; that the defendant was a young gentleman of fortune, who became acquainted with a player and his wife; that she, being mistress of the alluring arts of the stage, first engaged the young gentleman's affection and drew him in, and this with the husband's privity and assistance: for the plaintiff conceals the defendant's true name from the knowledge of the servants: at one place he calls him Cousin Thompson; at another, Mr. Benefit, a cant name, taken from a particular night in the year, when they get a great deal of money. The plaintiff tells the servants, the defendant is a romp, and a good-natured boy; and he makes a boy of him: he takes his money, lets him maintain his family, resigns his wife to him, and then comes to a court of justice, and to a jury of gentlemen, for reparation in damages. The

coun-

council further represented, that it would be of the utmost ill consequence, if it should once come to be understood in the world, that two artful people, being husband and wife, might lay a snare for the affections of an unwary young gentleman, take a sum of money from him, and, when he would part with no more, then come for a second sum to a court of justice.

That he (the council) desired to be understood, as by no means an advocate for the immorality of the action; for this is not a prosecution for the public, or to punish the immorality: this is only a question, whether the defendant has injured the plaintiff; and, certainly, the plaintiff cannot be injured, if he has not only consented, but has even taken a price.

However, if it should be thought requisite to find a verdict for the plaintiff, we have not a denomination of



coin small enough to be given him in damages.

Mr. Solicitor-general, in his reply, observed the ill consequence of letting it pass for a law, that men might sell their wives; which would be the consequence of giving a verdict for the defendant.

His lordship summed up the evidence;

And the jury withdrew; and, in about half an hour, brought in a verdict for the plaintiff, with ten pounds damages.





**T H E**  
**T R I A L**

**O F**

**Capt. G A M B I E R,**

**For Criminal Conversation with**

**The W I F E of**

**Admiral K N O W L E S;**

**In the Reign of G E O R G E II.**

**T H E** jury being sworn, and  
seated, the council for the  
plaintiff proceeded to open  
the cause of action.

*Council for the plaintiff.* May it  
please you, my lord, and gentlemen

**H 5** of

the jury, I am of council for the plaintiff; and this action is brought by the much injured party, admiral Knowles, against captain Gambier, captain of his majesty's ship the *Severn*, for criminal conversation with the admiral's lady. The admiral lays to his damages the sum of ten thousand pounds. We shall call our witnesses on the part of the plaintiff, and prove the fact, committed by the defendant, to your satisfaction; and then, gentlemen, you will give us such damages as you shall think the nature of the case, and the heinousness of the crime, deserves; which cannot be less, in my humble opinion, than what the plaintiff has laid in the declaration.

*Second council for the plaintiff.* Gentlemen of the jury, I am likewise council in this cause for the plaintiff. This is an action brought by admiral Knowles, against the defendant, captain Gambier, who has pleaded not guilty, for criminal conversation, and

corres-

correspondence, with the plaintiff's wife. It is an offence the defendant (Gambier) has been guilty of, of the highest nature in itself, and the most destructive of that peace and happiness, that love and affection, which ought, and which every man expects, from his wife, should attend the married state. An injury of this sort has always been looked upon as an irreparable loss, where-ever and when-ever it has happened. Adultery, in most of the civilized nations of antiquity, was punished with death: and we all know this, that Moses, the law-giver to the Hebrews, by the command and appointment of God himself, as it is written in the Old Testament records, ordered the person taken in adultery, in the adulterous act, to be stoned to death. At present, and in England particularly, the laws are not so severe; divorce, and pecuniary punishments, are the only penal-

ties we are subject to. This scene of adultery, now before you, is one of the most atrocious and wicked that ever was tried in this or any other court, or perhaps in this, or any other nation, if considered in all its circumstances; and which, as near as possible, and the nature of the things will admit, we shall now lay before you. And if my instructions be true, as I have no reason to doubt they are, we shall shew you how, and in what manner, the defendant, capt. Gambier, corrupted and seduced, from her allegiance and affection to her husband, the wife of the plaintiff. It seems the plaintiff, admiral Knowles, was sent over by his majesty, as governor of the island of Jamaica; this brought Mrs. Knowles thither. This happened in the year 1750. And here the admiral and his lady lived happy in the enjoyment of one another, as men and their wives ought to do; and



and my plaintiff had by Mrs. Knowles three children, during his government; and for ought that appears to the contrary, would have remained happy to this time, if it had not been for the wicked insinuations, and adulterous contrivances, of Mr. Gambier, the defendant in this cause. It seems, that this wicked commerce, between the defendant and the plaintiff's wife, began, as we shall prove, by undeniable evidence, on the 23<sup>d</sup> of April, in the year 1756, in the island of Jamaica, in governor Knowles's own house. Here it began. It seems, the admiral put so great confidence in the defendant, and had so high an opinion of his integrity and friendship, that (being recalled from his government, and his family being to return to England) he put his wife and family on board the defendant Gambier's ship, in order for their safe return to London. The  
 admiral

admiral himself could not return to England with his family in the same ship, but was obliged to stay in Jamaica, on some very necessary and urgent business, which required his presence and personal attendance a month or two longer. We shall shew you, gentlemen, in what manner this criminal correspondence between the defendant and the plaintiff's wife began on shore, in the plaintiff's own house, as I have already observed, was carried on, and daily practised on board the defendant's own ship, during the whole voyage from Jamaica to the port of London. When we have conducted them to town, we shall shew you how this wicked and adulterous intrigue was carried on from day to day: a lodging was taken for Mrs. Knowles, by Mrs. Knowles's maid-servant, according to the directions of the defendant; where he frequently visited Mrs. Knowles, dined and

supped

supped with her, was alone with her at several times, hours together, and was, in short, seen in bed with her. We shall likewise shew you, that Mrs. Knowles did often visit the defendant at his lodgings, supped with him, and staid in company alone with him many hours together, and that frequently.

--- Now, gentlemen, this is the nature of our evidence; to corroborate which, we shall produce to you, and lay before you, for your serious perusal and consideration, divers letters, written by the defendant to the plaintiff's wife, which acknowledge the fact, and prove the criminal correspondence which has been carried on between them: and if, as I am sure we shall, we can prove them to be the defendant Gambier's own hand-writing, we shall set this matter, I mean the criminal conversation between these two parties, out of dispute. So far out of dispute, that I wonder what sort of defence, the  
gentle-

gentlemen, on the other side of the question, intend to set up; but, as near as I can conjecture, they have pleaded not guilty, to bring this cause before you, to induce you to give small damages, and to ascertain them. But this, I am sure, when the atrocious affair shall come out before you, attended with all its circumstances, and considered as to its unhappy consequences, you will be of opinion, that the damages the plaintiff has laid in his declaration, are but just and reasonable. The defendant Gambier, it does appear, through the whole course of this proceeding, has acted below a man of honour, betrayed that confidence, friendship, and trust, which the plaintiff, admiral Knowles, had put in him, by corrupting and seducing his wife. In the defendant's letters, which will be laid before you, there are many things very surprising and romantic. He tells Mrs. Knowles, that he looks

on

on the 23d of April, the day they first began their criminal correspondence in the governor's own house, at Kingston in Jamaica, as the happiest day he ever enjoyed : he remembers, he says, and commemorates it too, as their wedding-day in the sight of God : says (for you must know, by the way, Mr. Gambier is a married man, and has two or three children) that he shall never love Mrs. G. (so it is written G. not Gambier at length, in the letter, meaning his wife) nor her children, any more, or not so dearly as her, meaning Mrs. Knowles, and her children, if God should bless them with a token of their love. And, that he should love her for ever ; and if he should have any token of their mutual love and tenderness, as he hoped, and was almost sure he should, he would take care of it, and nourish it before all the world, besides himself and the happy mother ; that is, that he would take care of it, and



and provide for it, next to himself and the mother, of all beings and things in the whole world. In another of these letters, he writes thus : “ ---- Keep me, madam, no longer in suspense; you can, if you will, inform me, that our mutual love is crowned with success,---- Crowned with some token of our tender and sincere love.” This last expression the enamoured capt. Gambier repeats several times.----Again he says, in these letters, that he, the defendant, continually made mention of her name in his prayers, every night and morning, to Almighty God, wishing heartily and ardently, that the time may shortly and swiftly come, wherein they may be happy, without any uneasiness and interruption, in the enjoyment of one another, which would make them ample amends for all the hardships and disappointments they had met with ; “ For I look upon you, madam, as my lawful and beloved

loved wife."--I shall conclude my observations on these letters, with noting one other circumstance; and that is, that the defendant, in one of them, speaks of the bliss and happiness they had often enjoyed in the state-cabbin, meaning Mrs. Knowles's bed-chamber, on board his own ship, in which he brought the plaintiff's wife from the West Indies to London. Thus, gentlemen, have I given you a brief account of this iniquitous transaction, which will shortly come out in its full length and proper colours, from the mouths and testimonies of our witnesses. Now, gentlemen, in cases of this nature, there lies, for your consideration, these several particulars: First, Whether the plaintiff, admiral Knowles, was married to the party with whom the defendant has been thus criminally conversant, as I am instructed to say; for if we, on the part of the plaintiff, shall not be able to prove their marriage

riage, that is, the marriage of admiral Knowles to his wife, this action, brought by the plaintiff in the present cause, will fall to the ground; for, if the criminal party Mrs. Knowles be not married, capt. Gambier, with her consent, will have as much right to lie with her as admiral Knowles: wherefore, we shall prove, to your satisfaction, by evidences, and honourable evidences too, that Mrs. Knowles was married to admiral Knowles at Aix-la-Chapelle. And here it will turn out, that the admiral, being at Aix-la-Chapelle, in Germany, fell in love with Mrs. Knowles, who was the daughter of an honourable and reputable family in that city, and there married her. This being done, and which, I am sure, we shall do to your satisfaction, the second thing which demands your attention, is the proof of the fact, that is, the circumstances and probabilities that the defendant Gambier has been guilty of a criminal con-

conversation and correspondence with the plaintiff, Knowles's, wife. This being proved to your satisfaction, the third and last consideration, which lies before you, is, What damages the plaintiff has sustained from the defendant, by the corruption, defilement, and adultery of his wife. In cases of this nature, juries have always given large damages; and I doubt not, gentlemen, when you have heard both sides of this cause, but you will be able to give a just judgment, find sufficient damages for the injured plaintiff, and so punish the defendant, as may deter all persons for the future, from being guilty of such atrocious crimes; a crime which, in itself, is the most destructive of the peace of society, and of that tranquility and happiness, which ought to subsist in every family. We will now call our witnesses, and lay before you these facts; and we do not doubt, but you will find a verdict for the plaintiff.

*Call*

*Call lady Williams.*

We will, my lord, with your lordship's leave, first prove the marriage of Mrs. Knowles with admiral Knowles at Aix-la-Chapelle, in the year 1750.

*Lady Williams sworn.*

Q. I think, madam, you was at Aix-la-Chapelle in the year 1750. Do you know any thing of the marriage of admiral Knowles with his present wife? Was you present at the marriage? And what do you know of it?--- Please to give the court and the jury an account of what you know relative to this affair.

*Lady Williams.* I was at Aix-la-Chapelle in the year 1750. I went thither to drink the waters, for the sake of my health: I knew the gentlewoman before the admiral married her some time: she was a modest, agreeable, courteous, well-behaved, sober young woman, and the daughter of very reputable parents in that city. The admiral  
coming



coming there, and lodging in the hotel kept by her parents, or frequenting the same, fell in love with her. I have been often at her parent's house; and, being well acquainted with both the parties, with the admiral, and the bride, I was invited to the wedding; and I was present at her marriage with the admiral. I saw them married, and the ceremony was performed in a parlour, or dining-room, in her father's house; there were several other persons present besides myself.

*Cross examined.*

Q. You say, madam, you was present at the marriage of admiral Knowles with his wife, pray, where was the ceremony performed, and by whom?

Lady *Will*. It was performed in a private room, in the house of her parents, and by a priest, who was dressed in a secular habit, like our clergymen here in England.

Q.

Q. Was the ceremony performed with a ring?

Lady *Will.* I did not observe that.

Q. Did you understand what was said? because the ceremony was not performed either in French, or in English.

Lady *Will.* No, I did not; because it was performed in Latin, and I do not understand Latin; but yet I could perceive they were married; and this I know, they lived together as man and wife all the while they and I were at Aix-la-Chapelle, which was some time. And every one looked on them as man and wife, and treated them with the civilities usual on such occasions.

Q. What is the maiden name of admiral Knowles's wife; and of what age was she when married?

Lady *Will.* Her maiden name was Plushee, and she was about eighteen years of age when she was married to the plaintiff admiral Knowles.

Q.

Q. Your ladyship means nearer fourteen years of age than eighteen?

Lady *Will*. I am mightily mistaken, if Miss Plushee was not full eighteen years of age, at the time of her marriage to the admiral, and she was always reputed a young woman of a sober life and conversation, which I believe was the chief inducement to the admiral to marry her.

Jonas Wright *called and sworn*.

Q. Who, and what are you?

*Wright*. I was footman to admiral Knowles, when he was at Aix-la-Chapelle, in the year 1750.

Q. Give the court and the jury an account of what you know concerning the marriage of your master, admiral Knowles, with your mistress, the lady Knowles.

*Wright*. I can speak only to the second marriage; I was not present at the first marriage. The second marriage was performed at the Lutheran chapel, about seven miles from Aix-

la-Chapelle. As I understood the language a little, I understood the ceremony well enough. And this was done at the Protestant church; because my mistress's parents were in some doubt, whether the first marriage would stand good here in England. However, they were both married in the Protestant way, by a priest dressed as the ministers are here in England; and all the while I was in the service of the admiral and my mistress, they both lived as man and wife.

*Cross examined.*

Q. Was you in the Lutheran chapel all the while the ceremony of marriage of your master and mistress was performed? Mind; you are upon your oath.

*Wright.* Yes, I was present all the while. I had often seen my mistress before she was married: and the ceremony of marriage does not greatly differ from that performed in England; only, that the priest is dressed

edressed in a black gown instead of a surplice.

2. But here, you say, you knew this Miss Plushee before your master, the admiral, married her: my instructions say, that she was the daughter of a person who keeps a cook-shop, or ordinary in Aix la-Chapelle.

*Wright.* She was the daughter of Monsieur Plushee, who kept a house for the accommodation of the nobility and gentry. No body but noblemen and gentlemen resort thither, and her parents keep their coach and two footmen.---I cannot say, but these servants do odd jobs, and wait at times on companies; and the coach may sometimes be let out: but this I am sure, they keep one of the best, if not the best house of entertainment in that city, or its neighbourhood.

*Court.* All this is nothing to the purpose.---The marriage seems to be fully proved.



*Council for the plaintiff.* With your lordship's leave, we will ask a third witness one or two questions, relative to the marriage of admiral Knowles and Mrs. Knowles, Which, being to the very effect of the last witness, we need not here repeat.

*2d Council for the plaintiff.* Thus, gentlemen of the jury, we have fully established the first point we have undertaken; and which, I hope, has been done to your satisfaction, viz. the marriage of Miss Plushee to admiral Knowles.---We will now proceed to shew you, in what manner the defendant, capt. Gambier, corrupted the wife of admiral Knowles, debauched her principles, and, for upwards of a year, criminally conversed with her. We shall lay before you our evidence, to prove the defendant guilty; the nature of which is of two sorts, viz. living evidence, and written evidence. And the one will strengthen and corroborate the other.

Eliza-

Elizabeth Bentley *called in, and  
sworn.*

Q. Madam, when did you come into the service of admiral Knowles's lady?

*Eliz. Bentley.* Some time in March, or the beginning of April, in the year 1756.

Q. Give the court and the jury an account, how you came to go to Jamaica, and how you came into Mrs. Knowles's service?

*Bentley.* I went over in the service of a gentlewoman; and, when I had been there, in the island of Jamaica, a little while, I was recommended to, and taken into, the service of Mrs. Knowles.

Q. How long had you been there, before you observed captain Gambier to come to the governor's, that is, your master's, house? And tell us when you first observed any indecent

behaviour to pass between captain Gambier and your mistress?

*Bentley.* Capt. Gambier used to come often to our house; he used often to dine and sup with my master and mistress. They were very intimate, and there seemed to be a perfect harmony and friendship between them. I believe my master had a great regard for captain Gambier: but, after I had been there about a fortnight, or somewhat more, it was on the 23d day of April, in the year 1756, captain Gambier came that afternoon, about three or four o'clock to our house, when the admiral was out, and he came into the room where my mistress and I, and Miss Bleffington were; and this had a door out of it into my mistress's bed-chamber. When the captain came in, my mistress was dressed.--- She was dressed in white, and had her hat on. Both she and the captain, after some time, went out of Miss Bleffington's room, my mistress going

ing first, and they both went into my mistress's bed-chamber, and there they staid three or four hours. All this while the admiral was abroad. When my mistress and the captain left the bed-chamber, which they did, by going out of the bed-chamber through a door that led into the dining-room, and so down into the parlour, I went into my mistress's bed-chamber; and, upon viewing my mistress's bed, which I had made in the morning, I perceived the impressions of the bodies of two persons, as though they had been amorously laying and tumbling thereon; and on the bolster of the bed my mistress had left her hat. I saw her afterwards without her hat; and her cloaths and things were rumpled and tumbled, as is usual when men and women play together, and hug, kiss, and tumble one another. After the captain was gone, my mistress bid me make her bed, which I readily did.

2. This is all that you observed on the 23d day of April. Did you ever after that day observe any more familiarities which passed between the captain and your lady? Pray tell us, what were those familiarities?

*Bentley.* My mistress would often pull off her stays against the usual time of the captain's coming;---sit with him in every amorous posture imaginable; sometimes he would embrace her, sometimes with his hand round her waste, look at, and ogle her; and she would, in return, sigh, coo, and smile at him, and often pat and stroke him; and then they would often go away, and be absent sometimes half an hour, sometimes an hour, two hours, and more; and I did imagine, by their behaviour, and by the bed which I had often on such occasions to make again, that they had repeated those pleasures they first began on the 23d of April.



2. Now, madam, I think you came to England with your mistress, in the ship with the defendant Gambier: Please to give the court, and the gentlemen of the jury, an account what familiarities passed between the captain and your lady, during your voyage in the defendant's ship from Jamaica to England.

*Bentley.* Governor Knowles, my master, was, by the government here in England, ordered to come away back to London; and, being intimate with captain Gambier, he consigned his lady, my mistress, with her two children and me, to go in the defendant's ship to London: we had cabbins fitted up for us on this occasion; and my mistress had the state cabin. The admiral came on board the first night, and lay on board that night with my mistress; but not afterwards. We set sail the next day for England; the admiral's affairs detained him six weeks or two months longer; so that he could not

go along with my mistress. Capt. Coates was commodore, and he came home to England with us; but capt. Gambier had the command of the ship. The cabin I lay in was next to my mistress's cabin; and my orders from my mistress were to get up every morning before six, and go up and take the children up, who lay above in a little cabin; and there I used to be for two hours, dressing the children, that is, from six to eight o'clock every morning. Capt. Gambier would always be up, walking on the deck every morning, and, when I was gone into the cabin where the children were, he would go down into the state cabin, and stay with my mistress sometimes an hour, sometimes more, and sometimes less: and this continued to be their practice, during our whole voyage.

2. When you came to town, did you, by the directions of your mistress, and the defendant, take a lodging

ing for your mistress? And tell us, what familiarities passed between the defendant and your mistress, after they came to town?

*Bentley.* I went by my mistress's and the defendant's directions; and I took a lodging at Mr. Wathen's, a haberdasher in Gloucester-street; and there the captain used to come and visit my mistress, and sometimes stay alone with her in her bed-chamber till one, two, three, four, and once till five o'clock in the morning. In my mistress's bed-chamber was a closet; and this closet was cleared and cleaned out, and the captain, the defendant, went into the closet, and fitted himself to it, that, in case of the sudden arrival of the admiral, the captain might hide himself there; and I saw him go in and try the closet, and he told me, it would do for the purpose; and the key was put in the inside. At other times, my mistress would go to capt. Gambier's lodgings, which was near my mis-

treſs's; once ſhe ſupped there, and ſhe would be there frequently two or three hours at a time.

Q. You ſeem to have forgot one particular, which I find mentioned in my inſtructions, and that is, your ſeeing the defendant and your miſtreſs in bed together: pray recollect yourſelf as to that point, and give an account of what you did ſee. And pray ſpeak a little louder, that my lord, and the gentlemen of the jury, may hear you.

*Bentley.* Curioſity, my lord, led me two or three times to look thro' the key-hole of the chamber door, in which I knew captain Gambier and my miſtreſs lay; the feet of the bed faced the door; and the firſt time I looked through, the curtains were ſo cloſe drawn at the feet of the bed, that I could not ſee any thing that was upon the bed; but I could very plainly ſee on one ſide of the bed (that ſide on which the captain lay) his ſhoes, which were near the feet

feet of the bed: just by stood a chair, on which the captain's coat and waistcoat hung: the captain getting out of bed, and going to put his cloaths on, I came away from the door.

Q. This was the first time: pray what did you see the next time you looked through your mistress's bed-chamber door?

*Bentley.* I was going to tell you. It was the next morning; and then it so happened, that on the other side of the bed, I mean on that side of the bed opposite to that on which the captain's cloaths were before, on a chair were hanging my mistress's gown and petticoat, and on the bed-mat near the chair, I saw one of my lady's white stockings, and a garter with a silver buckle. It being fine summer weather, and the sun shining very bright, I saw my mistress get out of bed, go to the window, draw back the curtains, and then re-  
turn



turn back and go into bed again. The captain said something to my lady, but what it was I did not perfectly hear.

Q. This was the second time. Did you ever after look through the door?

*Bentley.* It was a few days before the arrival of the admiral, and about a fortnight after the defendant had the closet fitted for his reception, in case of a surprisal. The morning I looked through the door, and which was the last time but one I did so, was the morning the captain staid all night with my lady till five o'clock in the morning. I came to the door about half an hour after four o'clock in the morning. The captain and my lady were laughing, playing, and talking; they talked partly in English, and partly in French. The defendant got out of bed, walked round the feet of the bed, made use of something that was on my lady's side  
of

of the bed, and then he jumped into bed on the same side; and soon after I believe both parties were as happy, in the mutual enjoyment of one another, as they were on the 23d day of April, in the governor's own house in Jamaica.

Q. You say, this time you looked through the door was the last but one: now, pray let the court know what you did see the last time.

*Bentley.* It was about four or five o'clock in the afternoon, the very day before the admiral arrived. The defendant and my lady went out of the dining-room into the bed-chamber, and shut the door, and then dressed themselves each in a loose silk night-gown; and there they played together, and the captain threw my lady upon the bed, and he flung himself upon her; but she disengaged herself, and got off of the bed; and then they ran several times one after the other round the room, playing and toying, till at length my  
lady

lady grew quite tired, which the defendant taking advantage of, flung my lady on the bed, and himself, where they covered themselves with the coverlid, and I could see no more; and then I came away.

Q. But when I asked you this question, madam, I interrupted you. You was going to relate some other familiarities which passed between the defendant and your lady.

*Bentley.* When my lady received the captain at home, she would do it in a loose dress, without her stays; and sometimes they would play together as lovers do, and he would feel her breasts, and put his hands thro' the slits of her gown, and up her petticoats; and my mistress in return would tickle the defendant, beat, pull, and strike him amorously, &c. These interviews and intrigues lasted till the admiral arrived.

Q. Do you know of any letters that passed between the defendant and your lady?

*Court.*

*Court.* If the defendant has any questions to ask this witness, it would be better done before the letters are read.

*Cross examined.*

Q. You have told the court, that you went to Jamaica : Pray what was the name of the person you went with ?

*Bentley.* I do not know, indeed : I have entirely forgot : I do not remember it.

Q. Strange ! Sure you are very forgetful ; for it is now scarce seventeen months since.

*Bentley.* I went over with a friend or acquaintance of mine, as a servant ; but the name of the party I do not remember ; only, that the name was a very hard one, and not easy to be remembered.

Q. Could you tell the name, if you was to hear it ?

*Bentley.* I cannot say I could ; because I never heard the name of the person

person I went over with but once; and I never had any occasion to make use of it.

Q. You call the person you went over with, sometimes person, and sometimes party: may be this person or party might be a man, your sweetheart, perhaps. Tell us, whether the person, you went with, was either a man, (I presume you know what a man is) or a woman, or an hermaphrodite?

*Bentley.* I have already told the court, that I went over with a woman, who was my mistress.

Q. Pray how came you acquainted with your mistress, as you call her; and how long was you acquainted with her, before you went with her to Jamaica?

*Bentley.* I shall relate it as briefly as I can possibly. I had been some time out of place, and in great expectation of changing my condition, but was disappointed; and being one after-



afternoon drinking tea with a maid-servant in a merchant's house in the city, I was informed, there was a gentlewoman, who would be there the next day at tea-time, who wanted a chambermaid or young woman to go with her, and she would pay her passage, who could handle her needle well, work fine work, and make up gentlemen and ladies shirts and shifts. This I undertook. Accordingly, all my passage, both the gentlewoman and myself continually (but when we were in bed; for we both lay in one bed together, or at breakfast, dinner, or supper, and sometimes the gentlewoman would divert herself and me with reading a play out of Shakespeare, &c. and sometimes, by her direction, I did the same) were thus employed. And when I came to Kingston, the gentlewoman conducted me to a house of her acquaintance, where I found she was much respected, and I was very

very civilly used. The gentlewoman the next day went further up the country, and I never saw her more, nor ever heard her name from that day to this. When I had been in this house a fortnight, I was told, that adm. Knowles's lady wanted a servant. I waited on her; she was then in great want of a chambermaid; and the admiral understanding that I was just come from London (for at this time my lady, the admiral, and miss Blessington, were all together, drinking tea in the parlour) I was asked to stay then; but I was permitted to go back and fetch my box, which a porter brought to the governor's house.

Q. So, madam, you was disappointed in love; then you had a sweetheart. Well; and so you left your sweetheart, and went to sea with a person you knew nothing of. ---Pray what wages had you: you worked hard, and a long time too?

*Bent-*

*Bentley.* My sweetheart married the Sunday before I went on board, under the specious pretence, that his parents would disinherit him, if he did not marry the young woman he then married. He had often solicited me to live with him, privately as his wife, till his father was dead; but, though I was very willing to become my sweetheart's wife, I could not think of being his slave or his whore, a custom too prevalent of late. As to wages, the party I went with was to pay my passage, keep me, and get me a good place when I came there: all which she performed. She likewise made me a present of a guinea, the day we landed in Jamaica. And who recommended me to the admiral's lady's place, I do not certainly know.

Q. You say, miss Bleffington was in the same room where Mrs. Knowles, the defendant, and you were: she must therefore, as well as you, see them

them go into the bed-chamber ; and might, if she pleased, as I suppose, see all you did see : What did she say to all this ? to be sure you and miss made your remarks on what you imagined passed between the defendant and the governor's lady ?

*Bentley.* Miss Bleffington never observed any thing concerning what passed between the defendant and my lady to me ; and therefore I could not take any notice of this affair to her. She is a young lady of great prudence, conduct, and discretion, much addicted to reading of history, and talking of the virtues and heroic actions of the ancients, and the great deeds done by the most illustrious women. I was not much above a month in this service before I returned, as I have related, in the defendant's ship to England ; and therefore could not be very intimate with Miss Bleffington.

2. You have said, that you came from Jamaica to London in the defendant's

defendant's ship, together with the plaintiff's wife and her children; did you lie in the same bed, at least in the same cabin, with your lady?

*Bentley.* My mistress lay in the state cabin, and I lay in the cabin next to it.

Q. Was there not a sash window in the partition that divided the state cabin from the cabin in which you lay?

*Bentley.* There is a window between the two cabins; but then there are curtains on both sides.

Q. But then you was so near, or close to the cabin, that you must, when you was there, hear every thing that passed. Now, I would ask you, as you are upon your oath, Whether you ever heard the defendant Gambier in the state cabin, with your lady, in the night, after she was gone to bed, and before you got up; which, you say, was between five and six o'clock every morning?

*Bent-*



*Bentley.* I must have heard the defendant if he had ever been, in the night-time, in the state cabbin, during the time I was in bed. I never did hear him, nor do I believe he ever was there during that time. But this I am sure of, that every morning, after I went up to dress the children, he would come down off the deck, go into the state cabbin, undress himself, and go into bed to the admiral's wife.---I have seen the defendant in bed with my mistress; and I made the bed every day, and one can easily see, whether one or more has lain in it.

Q. Well; I find you will have your own way; you have learnt your lesson perfectly.---But, here, madam, my directions say, after you came to London, and had taken the lodgings at the haberdasher's, that one of Mrs. Knowles's daughters lay in the bed with her; and I think she was between five and six years old.

*Bent-*

*Bentley.* One of my mistress's daughters did lie in a little bed in her bedchamber, but she is now scarce four years old.

Q. Did not you say, that your mistress, meaning Admiral Knowles's lady, had used you very ill? and did not you say, that you would be revenged on her, or words to that effect, threatening that you would swear against her, in the manner you have now done?

*Bentley.* No, I never did.----I had no words with my mistress ever, except about the paying of me my wages in Jamaica currency, instead of English money.

Q. Have you not at several times before this, and since the commencement of this suit, told various stories, and those quite different from what you say now, particularly, whether you have not often said, that you have never seen any other familiarities between Captain Gambier and Mrs. Knowles?

Knowles than might be between a brother and a sister.

*Bentley.* I never said any such words ; ----nor ever did represent the affair between Captain Gambier and Mrs. Knowles in any other manner, or light, than I have done to the court.

Q. Did not you tell young Mr. Knowles, a quite different story ; I am sure my instructions say you did.

*Bentley.* No, I never did ; I told him the truth, and nothing but the truth.

Q. We shall be able to confront you, when we call our witnesses. Do you know Mr. Roberts, Mr. Robinson, Capt. O Hara, and Mr. Neal ?

*Bentley.* I do not know any one of them, nor can I tell whether I ever saw them.

*Second council for the defendant.*

I must ask the witness a question or two with your lordships permission. Here Mrs. Elizabeth Bentley, you say, you saw, I mean when you peeped through the key hole of the door, at  
your

your mistress's lodging here in town, the defendant's shoes, and his coat, and waistcoat, did you not see some other thing belonging to him, since you saw him get out of bed?

*Bentley.* As the chair stood I could not see any other of the defendant's cloaths, but when he was out of bed he removed the chair, put on his black velvet breeches, and his white silk stockings.

Q. And what did you see besides, pray tell us?

*Bentley.* I have told you all that I did see; all the truth, and nothing but the truth.

Q. My lord, this evidence is well tutored, their time and pains have not been lost. We will not trouble the court any farther at this time; but as it is likely we shall want hereafter to ask her some more questions, we desire she may not depart the court.

*Council for the plaintiff.*

My lord, with the leave of the court, we will now call our witnesses,

and prove the authenticity of the letters before they are read. And to this end we desire you (speaking to Elizabeth Bentley) to look on these letters, and tell us whether they are the hand writing of Capt. Gambier?

*Bentley.* I have often seen him write, but not his own name; for the defendant, and my mistress, carried on their intrigue under the borrowed names of Torrismond and Leonora: Captain Gambier named himself Torrismond, and my mistress Leonora.----I saw the captain write this letter, and he sent it by me; and I read it all through; for it was not sealed.----I was in the same room with the defendant, when he wrote this letter, he made no scruple of discovering to me, the love he had for my mistress: He always behaved himself very civilly towards me:-----I cannot say, but the captain, barring the intrigue between himself and my mistress, behaved himself very much like a gentleman. And I do verily believe,



believe, all these letters to be the hand writing of Captain Gambier; but I never did see the defendant write his own name.

*Clerk of the registers of the commons called and sworn.*

Q. Are these the very letters that were exhibited in the commons in a cause now depending there, in order to obtain a divorce on the part of Admiral Knowles against his wife, for breaking her marriage contract?

*Clerk.* They are the original letters of the defendant Captain Gambier, and wrote by him, and attested in the prerogative court, on the oaths and testimonies of Elizabeth Bentley and others.

*Mr. Henshaw called and sworn.*

Q. Do you know the hand writing of Captain Gambier? can you say these letters are not the hand writing of the defendant Gambier?

*Henshaw.* I should scruple paying a sum of money on this writing; yet they look like his hand writing; I cannot

not be positive; and yet I believe they are his hand writing.

*Cross Examined.*

Q. How long have you known the defendant?

*Henshaw.* Six or seven years. I have seen several of the defendant's letters. I have several of his letters by me now which he wrote to me on various occasions.

*Court.* Look on them again, and recollect what you think of them.

*Henshaw.* My lord, the more I look on them, the more I think they resemble the hand writing of the defendant, and I can perceive no difference of the form and manner of both, than at the bottom of the letters which I have are signed with his own name, Gambier, and these have the fictitious name of Torrismond. Indeed now steadfastly looking on them, I cannot see any other difference.

*Council*

*Council for the plaintiff, to Jonas Wright.*

*Co.* Do you know the defendant's hand-writing ?

*Wright.* I never did see the defendant write, but I have often seen letters of his, and I believe these I now look on to be his writing.

*Council for the plaintiff.* I believe, my lord, we may now venture to read the defendant's letters.

*Court.* How many are there of them ?

*Council for the plaintiff.* Four, my lord, and two of them are very long.

*Court.* You may read them.

*[The letters were read, setting forth how much Gambier was in love with Mrs. Knowles ;----that he could not sleep on nights for the thoughts of her ; several relations of his dreams and forebodings, concerning their present troubles and*

perplexities, and of his hopes of their being shortly happy and freed from all impediments to their future uninterrupted bliss;----what pains, he, the defendant, took to debauch the mind and principles of admiral Knowles's lady, to lead her out of the paths of virtue into the high road of sin and debauchery;--that she should take every opportunity of writing to him, which would give him great satisfaction, and tend much to the ease of his mind: he says, she might write a few lines to him, if she did it even at that time when she was alone putting on her shift;----that he remembered that happy day, the twenty-third of April, as their wedding-day, and as the day which compleated his happiness and bliss; ---that it gives him the greatest satisfaction, the remembrance of those mutual joys and endearments which passed between us in the state cabbin, in our voyage from Jamaica

maica to London;---that the defendant made mention of Mrs. Knowles's name in his prayers before God, morning and evening;---that he hoped he should shortly receive from her the agreeable surprise, that they should, in due time, know, that their mutual and tender love was blessed with suitable tokens of reward;---that when he did, he would take care of the offspring with so much tenderness above all beings and things next to her and himself.

*Defendant's defence.*

*Council for the defendant.* My lord, and gentlemen of the jury, I am council for the defendant, and I readily allow, with my learned brother, who opened this cause, that a crime of this nature ought to be punished, and that severely; it is, as has been observed, a very great offence to civil society, and was punished by the an-



cients in a capital and exemplary manner: and were offences of this kind to pass unnoticed or unpunished, it would introduce universal confusion and disorder among us; no man would be safe in the possession of that inestimable part of his property, which is the most dear to him, the love and affection of his wife. I am the last, gentlemen, who would stand up in the defence of a person guilty of so heinous a crime; but I am instructed to say, and it will appear from the witnesses we shall call on the part of the defendant, that the defendant Gambier, is not guilty of the heavy charge, which the plaintiff Knowles has artfully and maliciously brought against him. We shall prove, that the witness Betty Bentley, the only witness they have brought to prove this offence, has done it purely out of spite and malice to her mistress, to be revenged on her, as she often declared to several persons; and this will come out to your satisfaction.---

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Gentlemen, as this crime is in its own nature and consequences one of the worst of crimes, so it is necessary, in an especial manner, you should make a strict enquiry into the circumstances of it, before you form a judgment in this cause. And I do not doubt, but you will be able to judge of this affair, when you have heard the defence on the part of the defendant. Indeed, my learned brother has thrown out many words, in order to stigmatize the defendant with the vice of ingratitude, therewith to captivate your passions, and to raise in you a resentment to the behaviour and conduct of my client. You have been told, that the defendant captain Gambier has betrayed that confidence, friendship and trust, which the plaintiff Knowles put in him. Whereas it doth not appear from what has come out, that there was any great intimacy and friendship between the plaintiff and defendant, more than is common among persons, engaged in

one and the same manner of life. You have been told over and over, that captain Gambier was ungrateful, and the learned gentlemen on the other side of the question, have charged him with ingratitude, but in the course of their evidence, they have not given us one single instance of it. I shall now, in the first place, make some observations on the evidence that has been given you on the side of the plaintiff, and I do not think there has appeared any evidence or circumstance so plain, but that I shall leave with you, for you are in these cases the only proper judges, as to convict the unhappy defendant of the heinous crime he stands charged with. Unhappy, I call him, and so he is, to have his reputation and bread taken from him, by a false accusation, as I am instructed to say. And first as to the marriage; this they have but lamely proved. We allow the validity of the marriage of the plaintiff Knowles with miss Plushee at Aix

Aix la Chapelle, and therefore I shall not trouble you on this head; but how have they proved the criminal conversation between the accused parties; why they call you a maid servant, whose name is Elizabeth Bentley, and truly she cannot remember a transaction scarce a year and three months old. When she was asked, what induced her to go from London to Jamaica, what view she had in going, with whom she went, what wages she had, and what were the condition, business, and circumstances of the party she went with; she answers, that she neither knows the name of the party she went with, nor her condition or circumstances; and, yet she was six or nine weeks (for oftentimes ships are so long, or longer, making a voyage from London to Jamaica) in a cabin, nay, in the same bed with her mistress, as she at last stiles the party, and never asked her, either her name or her business. In fine, Mrs. Bentley only says, and she stands

stands to it, that she went to Jamaica along with, or in the service of somebody, whom neither she, nor any body else knows.---Now is it reasonable to believe, that the witness Bentley in this respect speaketh truth; for if it were possible, for her to forget the name (for, she says, she heard her name but once, and that it was a very hard one) of her mistress she went with, yet it is impossible, but she might remember what state or way of life she was in; as, whether her mistress she went with was a sempstress, a mantuamaker, or a quilter. But this gentlemen, is not the only improbability and incredibility in her evidence; no, she has many contradictions in the course of her testimony, of which I doubt not but you have taken notice. She says, that she had not been more than a fortnight in Jamaica before she was recommended as chamber-maid to governor Knowles's lady, and yet she could not tell who recommended her.

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Is it not altogether incredible, that when this witness had not been scarce a fortnight in governor Knowles's family, before Mrs. Knowles made her her confidant, and trusted her with a secret of the utmost importance. Again, gentlemen, you have heard from this witness, for she can remember what she pleases, that on the twenty-third of April in the year 1756, she was in miss Bleffington's room, or chamber, in governor Knowles's house, with miss Bleffington, at the same time, that the first pretended amour happened between captain Gambier and her lady. Very free truly! Betty have you made the bed? Yes, madam, replies the witness, Bentley. Miss Bleffington must be privy to all this.---Now, why was not miss Bleffington brought here as a witness of this criminal conversation between the defendant Gambier, and admiral Knowles's lady. The evidence of miss Bleffington would have been useful, and would have set this affair in  
a clear

a clear light, and quite out of dispute ; but perhaps she is not brought here, on the side of the plaintiff, because her evidence would not serve their purpose. It is very strange, at least very imprudent, and highly improbable, that captain Gambier and the lady Knowles, should be in company with the witness and miss Blesington, and leave them in the manner they did, or as it is said they did ; for I confess I cannot give any credit to the relation, go and lie upon a bed in the next room, dallying for two or three hours, nay, three or four hours, and after all not have the prudence to make the bed again, or put the bed-cloths into order,--smooth the rumpled bed, &c. They had time sufficient to do all this. And then again on board the ship, coming from Jamaica to England, as to the familiarities that passed between captain Gambier and Mrs. Knowles,--they have produced you no other evidence, besides this Betty Bentley, though

though there were several other persons on board, and they must, if there had been any thing criminal between the parties, have known it as well as Betty Bentley. Commodore Coates was on board, and might have known this whole intrigue, and if it had been truth, would, as a man of honour ought to have done, informed admiral Knowles of the criminal greatness of his wife with the defendant. Several others came over at the same time, in the same ship, but not one of them are produced; all which to be sure might easily have been done, but it is likely they had not learnt, or would not learn, their lesson so well as the witness Bentley has done. A witness, whose testimony is so weak and trifling, that I cannot help wondering that my learned brethren have rested the merits of this cause upon it. As for the letters they have produced to you, I shall leave the absurdity of their being wrote by my client the defendant, to be confuted  
by

by our witnesses. I shall now briefly lay before you the nature of our defence. In the first place, we shall endeavour to shew you, that Elizabeth Bentley has sworn all this against the plaintiff's wife, Mrs. Knowles, out of spite and malice to her. It will come out from our witnesses, that the witness Bentley often said, that she would be revenged of her mistress : particularly she has said, my mistress, meaning Mrs. Knowles, has used me ill, has used me like a negro, and I will be revenged on her for it, I will swear that she has done so, mentioning what she has done now in court. Now, if we prove, as I am sure we are able to do, by indubitable witnesses, persons of great credit and reputation, that this is a spiteful and malicious prosecution, you will find the defendant not guilty. We shall likewise prove, that the evidence Elizabeth Bentley, hath often declared, that she never saw any other familiarities pass between captain Gambier

bier and Mrs. Knowles, than might pass between a brother and sister. We shall call our witnesses and prove all this, and then my brother's wonder of what sort of defence we could make, which he expressed in the opening of this cause, will cease.----But, if after all, gentlemen, you should give credit to the testimony of Elizabeth Bentley, and find a verdict for the plaintiff, though I cannot see upon what part of her evidence it can be founded, but that I will leave with you, who are the properest judges of this fact, then it will remain for your consideration, what damages the defendant hath done the plaintiff by his criminal conversation and correspondence with his wife. Now, in this case, the circumstances of the two offending parties ought to be seriously and duly weighed and considered. As for my unhappy client, he is very poor, and has, since the commencement of this action, lost his office of captain, is now a thousand pound in debt,



debt, has lost his reputation, is not able to support his family, and if you should find large damages for the plaintiff, my poor client will be carried to prison, and at length die in a goal. On the other hand, the state and condition of Mrs. Knowles, before marriage, may be considered. You have heard, indeed, that miss Plushee, was the daughter of an honourable, and reputable family in Aix la Chapelle, but it has turned out, that she was only the daughter of an innkeeper, or of one who keeps an ordinary, or a victualling-house, or it may be, a cook's shop, or a chop-house in that city. When you have considered these things, especially the poverty and penury of my client; and, I think upon the whole, if you find ten pounds damages, it will be sufficient; but all this I submit to you, and hope, gentlemen, you will be favourable to the defendant, and think he has suffered enough already.

*Captain*

*Captain O Hara called and sworn.*

Q. Was you at capt. Gambier's lodgings that night the witness Bentley came to talk with the defendant?

O Hara. I came after she was gone; for I mistook the time, and therefore I came too late. I was desired to come on the Monday night following, which I promised to do.

Q. Captain, How long have you been acquainted with the defendant Gambier?

O Hara. Eight or ten years, or more.

Q. Do you know his hand-writing?

O Hara. Yes, I have by me several of his letters, and I am well acquainted with the defendant's hand-writing.

Q. Pray look on these letters; and tell the court and jury, whether you do believe them to be the hand-writing of the defendant in this cause?

O Hara.

*O Hara.* [*Looking on the letters*] They are the hand-writing of the defendant captain Gambier; indeed they are, I believe they are his. Upon my honour they are the hand-writing of captain Gambier.

*Council for the plaintiff.* Sir, pray look again upon these letters; this particularly marked No. 4. is this wrote by the defendant?

*O Hara.* Yes; it is his hand-writing: upon my honour I do believe, this letter marked No. 4. is the hand-writing of the defendant capt. Gambier, as well as the others.

*Cross examined.*

Q. Sir, was you at the defendant's lodging on the Monday night following the Friday that you was there, and came too late?

*O Hara.* I got thither about eight o'clock that evening; the defendant came to me to my house, that morning, and desired me to be at his lodg-

odging in good time, that I might be there before the witness Bentley came.

Q. Pray, did you hear the witness Bentley say, my mistress has used me ill, has used me like a negro, I will be up with her for it, I will be revenged on her for it; I will swear that the defendant lay with Mrs. Knowles, or words to that effect?

O Hara. I heard the witness Bentley say, I will be revenged, I will be revenged, &c. two or three times, but what it alluded to, I cannot take upon me to say.

Q. Did you see the witness Bentley come that evening, and what happened thereon?

O Hara. I saw her come tripping up the stairs, and the defendant met her at the head of the stairs, and received her very amorously; and they seemed so loving, that I am sure he might have had any thing he would of her; he might have lain with her; but she perceiving the door to stand a little

little open; that is the door we were listening at, she said, there is somebody in the next room, and they will hear us; I will not stay now, and immediately she went away; and I never saw her since, 'till to-day in this court.

Q. Sir, you say, you have known the defendant a long time: do you know his present circumstances?

O Hara. He owes me a thousand pounds upon bond, and since his misfortune I have lent him several little sums, or he and his family must have been starved. Since the commencement of this suit I likewise helped him to the loan of five hundred pounds, at ten per cent. from a friend of mine, for he has been at very great charges in defending two suits, one in the commons, and another in this court. I fear, after all, that he will be thrown into goal for debt, especially if this cause should go against him, lie there, and rot 'till he dies; for



for he has lost his captainship, and is now over head and ears in debt.

*Council for the plaintiff.* My lord, it is a common case, when the plaintiff brings an action against one of the captains of his majesty's navy, he instantly applies to the navy board, and the delinquent is immediately superseded. Nothing is more customary, nor more reasonable than this; for if the delinquent is not superseded, justice could not take place, nor the offender be demeanable to the law. For, my lord, if he be at sea, in his majesty's service, the plaintiff cannot come at him, to have justice done him, and if he remains in commission, the ship must be inactive, and may be thereby a great detriment to the public; wherefore, when such an affair, as this now before the court, happens, the delinquent is superseded, or rather suspended, another captain is appointed to the command of the delinquent's ship; and thus, my lord,

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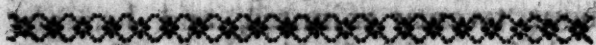
every

every evil, which otherwise might accrue to society from such events, are intirely prevented. And where is the hardship, the defendant is all this while on half pay, and when the defendant has made satisfaction in this cause, or if he should be acquitted, he may soon be put in commission again; for this affair does not affect the defendant's character as a commander.

Then the lord chief justice delivered a very learned and ingenuous charge to the jury, setting forth the evidence on both sides, in a plain and distinct manner;----he dwelt some time on the evidence arising from the defendant's letters, as they had been proved to be the defendant's own handwriting, and shewed how they corresponded with, and corroborated the evidence of Elizabeth Bentley. Which lasted near three quarters of an hour.

After

After which the jury withdrew for about twenty minutes, and brought in their verdict for the plaintiff, with one thousand pounds damages against the defendant.



THE

C A S E

O F

JOHN DORMER, Esq.



N matters of incontinence and adultery, few or no examples are to be found, so impious in their nature, and so flagrant in their circumstances, as that which is now to be submitted to the reader's perusal. 'Tis true indeed, that history abounds with relations of libidinous and profligate women, and the reverence which is due to the fair sex, does not make it criminal for any one to say, that the ladies are subjected to the infirmities of nature, as well as the men. But then,

then, these vicious inclinations were owing to want of indulgence, in those they had been joined with in wedlock, or arose from involuntary marriages, such as were either forced upon them by rigid and austere parents; or they were unhappily tricked into by corrupt guardians and match-makers.

This was so far from being the case of the adulterous woman, who is the melancholy subject of the following narrative, that there is not the least room for any thing like a favourable construction of her procedure, whether we consider her ingratitude to so good a husband as Mr. Dormer, who raised her from a very low degree of life, to the dignity of a woman of condition; or the scandalous manner of her prostitution to one of her most inferior servants, from whom she met with a treatment suitable to so detestable a familiarity between a footman, that dared to commit the vilest acts of lewdness



with his mistress, even while he wore her husband's livery on his back, and a wretch of an adulteress, who had continued upon a level almost with that villain, she gave herself up to an intemperance of lust with, had not a person of one of the best families in England, a gentleman of wealth, of honour, of a free and generous education, of a sweet and winning aspect, a genteel, and easy deportment, of a brisk and sparkling nature, made her his equal, by raising her to the same pitch of greatness with himself.

Such was the kind, the sincere, the much abused Mr. Dormer, who to shew his wisdom in the choice of a wife, prefer'd beauty, good humour, and a supposed innocence, to the baits and allurements of money, by which the generality of mankind run themselves into inquietudes of life, in too greedy a pursuit of it, and made it his option, rather to make the partner of his bed dependant on him,

him, from her want of a competent fortune, than to have an opportunity of upbraiding him, with what she brought in money, land, &c. and by those means attempt to be his superior.

There was no wonder that the proposal of marriage was accepted by a woman of her abject state of life, when it came from a man possess'd of every good qualification, either as to person, estate, or most uncommon endowments and perfections of mind. What gives occasion for wonder is, that she could not have a reciprocal affection for one she was so much engaged to, not only for his condescension in preferring her to others of the same sex, who had the recommendation of birth and fortune, but loved her almost to distraction and dotage; especially, since the fellow she was so prodigal of her favours to, was the very reverse of that most adorable,

most kind, and most indulgent of husbands,

If Mr. Dormer was of high and generous extraction, Thomas Jones derived his birth from the dregs of the populace; if the one was engaging in his address, the other was provoking in his behaviour. In a word, if the master was most acceptable for the comeliness of his person, the beauties of his mind, and the affability of his temper: the servant was distinguishable for his deformity of body and soul, being neither possessed of one good feature, in the one, nor one quality fit to be borne with in the other; such was the husband, such the gallant.

Nor would the first, notwithstanding frequent intimations from his friends and domesticks, of the violation of his wife's nuptial vows, with such a scoundrel as her own footman, give credit to what was said of them, 'till they grew so bare-faced and open in their wickedness, that  
he

he would have been a reproach to his neighbours, as well as his own family, had not he after several admonitions to the one to return to her duty, and commands to the other to quit his service; repudiated the first, and endeavoured to make the last severely smart for the injuries he had done him: since his character would have been farther exposed by cohabiting with so infamous a creature, who, contrary to all laws, human and divine, had so scandalously abused him; and suffering such a vile adulterer as Jones to triumph over the misfortunes of his bed.

He therefore, by advice of council learned in the law, brought his action against the footman for 10,000 l. damage, which in some time came to a hearing at the King's-Bench bar Westminster, before the lord chief justice Parker. The declaration being (in English) as follows:

*Hilary term, I. George 1715.*

Thomas Jones late of the parish of St. James's, Westminster, in the county of Middlesex, yeoman, was summoned to answer to John Dormer, Esq; in a plea of trespass, upon the case, for insulting by force and arms, Diana, the wife of the aforesaid John Dormer, of the parish and county aforesaid, and beating, wounding, and ill using the said Diana, so that her life was despaired of; by which means the said John Dormer was deprived of the comfort and happiness of his wife for a long time, viz. for the space of three years then next following, and committed many other enormities to the said Diana, to the great damage of the said John Dormer, and against the peace of our sovereign lord the king, &c. Whereupon the said John Dormer, by George Tilden, his attorney, complaineth, that the aforesaid Thomas Jones,



Jones, did, on the first day of October, in the tenth year of the reign of our late most gracious sovereign queen Anne, insult the said Diana of the parish and county aforesaid, with swords, clubs, and knives, and beat, wounded, and ill-used the said Diana, so that her life was despaired of; by which means the said John Dormer, altogether lost the society and comfort of his wife for a long time, viz. for the space of three years then next following, and committed other enormities, &c. to the great damage, &c. and against the peace, &c. whereupon the said John Dormer is demnified to the value of ten thousand pounds; and thereupon he brings his action, &c.

The council for the plaintiff were, Nicholas Lechmere, Esq; solicitor-general; sir Francis Page, serjeant at law, and Mr. Denton. For the defendant, Mr. Fortescue, Mr. Serjeant Darnell, and Mr. Ketellby.

The first witness that was produced was a woman, who being ask'd, by the solicitor-general, what familiarities and indecencies she had seen committed between her mistress and the defendant, said, that coming into the parlour hastily, she saw the defendant kissing her mistress, with his arm round her neck, at which she was perfectly amazed, fell almost into a swoon, and could hardly believe her eyes.

The second witness being ask'd the same question, answered, she saw her mistress leaning upon the window, and the defendant's hand upon her hip.

A third deposed, that one Charles, another footman, and the defendant were fighting, and it reaching her lord's ears, she came in a great fright, and desiring the servants to part them, and fearing least the defendant should be abused, she swooned away, and was carried between two persons into her room, but after hearing the defendant

pendant was like to have the better of it, she said, let him beat the other stoutly.

The youth was the groom, who averr'd his master's house was two or three miles from the post-house, and that every post-day the servants took their turns to fetch the letters; and it falling to the defendant's turn, he saddled the horse as usual, soon after which the defendant came in, and swore he would have the other horse which was sick and covered with a body-cloth; the groom deny'd him, the defendant swore he would beat him, and gave him opprobrious language, but at last acquiesced, and took the horse that was saddled.

The lady was soon acquainted with this matter, and the next morning she came with the nurse and child into the stable, and ordered the groom to set the child upon the horse, and being at a convenient distance, she reprimanded him very severely, and told him, if he ever dared to deny Tom a horse again,

again, he should tie him to a post, and whip him as long as he could stand over him.

The next witness was her gentlewoman, who having observed very great indecencies between them, took an opportunity to acquaint her, that she design'd to leave her service on the morrow, and desired her to look over her rooms, that every thing was in the same condition she found it; the lady admiring at her abrupt departure, she answered, she did not think any woman worthy to be her lady, who made herself so familiar with her foot-boy. Being desired to be a little more particular, and press'd home by the council, she said, that going through one of the rooms, she heard a bustle and a noise, near, or upon the bed, and listened to it some time, and in a little while after, she saw the defendant going from the bed, and her mistress running after him; her curiosity did not lead her so far as to go to the bed afterwards,

or

or she might without doubt have seen it ruffled and disordered; or had she pursued the noise immediately upon the first hearing, she might in all likelihood have surprized them in the very fact.

Another witness deposed, that coming from market she was called up and told by her master, it was her mistress's pleasure she should be gone instantly, Tom Jones's niece, being sent for, and put into her place; the woman told her she knew very well the occasion of her departure, and had found every day fresh marks of her displeasure from that very hour she had seen Tom and her together.

Another swore, she saw Tom and her mistress in the sweetmeat closet, and was ask'd by her, if he liked any thing there, if he did, it was at his service, and several times when there was company in the parlour, she gave orders that Tom should have a glass given him.

After



After this several persons were called, who gave an account, that they were shut up together several hours every day; Tom did every thing, even delivered out her foul linen, carried up water to make tea, drank tea with her, whereas no man-servant ever before dar'd to set his foot in the room, but always delivered his message at the door; and when any of the women came accidentally into the room, the fellow would either be running out another way, or stirring the fire, or be doing some little trifling thing or other, as an excuse for his being there; nay, she descended so low, and demean'd herself so far, as to make the fire herself for the sake of privacy.

The lady was now in child-bed; and dispatched a messenger to him (for he had been discharg'd some time before) to acquaint him with it, her husband's fondness and indulgence would not let him be long absent; he long'd to see how she did, but was deny'd

deny'd by her in some heat, that it was immodest, indecent, and not to be allow'd; but Tom was admitted the same day, and sat several hours upon the bed; nay, in her very pangs she mentioned his name, poor Tom will miss me in my absence; and pointing to one of her servants, Betty, you must be kind to Tom: and to the nurse, good nurse, carry Tom some caudle. He was now grown insupportably impudent; and the lady felt the severe effects of it; what could one expect better from one who has not the least spark of gratitude, or sense of honour in him; his person very homely, being a short, thick, squat fellow. The lady heard a noise among the servants, and came to see what was the matter (thinking, I presume, Tom was abused) she no sooner came into the room, but Tom ask'd her what she had to do here? Go and mind your business, and sit in the parlour; snatches the candle out of her hand, and gave her a thrust.

so.

so that she was forced to go down the back-stairs, without any light or person to attend her.

He some time after sent her a letter for some money; the lady sent word by the messenger, she was afraid she could not be so fortunate as to answer his expectations in that particular, but hoped she should be so happy as to see him that evening: the spark came, and after they were together some time, a servant-maid was going by, and heard a violent blow given, attended with a dismal shriek. She opened the door, and saw her mistress all in tears, holding her hand on her bosom, crying out, she was murder'd by the violence of the blow the villain had given her on her breast: he had the impudence to come again the next day notwithstanding; the lady could forgive him, expostulated with him, and gently upbraided him for his cruelty: O, Tom! how could you be so unkind to use me at this rate! To which he

he answer'd, damn it, I am a passionate dog, I am sorry for it.

When the family was in town, he had the assurance to frequent the chapel where she went, and always got into the seat before hers, would use the greatest incivilities, make mouths at her, and spit upon her, insomuch, that the pew-keeper hath often observed her to tremble at his coming into the seat, and frequently drop her book with confusion; the minister had often observ'd his behaviour, and after church was over, look'd into the pew, and saw a great quantity of spittle all over the seat.

Another witness swore positively, he heard the defendant say, Mr. Dormer is a cuckold, I have lain with his wife several times.

The son that was last born died soon after; and Tom was very careful and industrious in ordering the funeral, came to the sexton several times, and gave particular orders in what part of the vault it should be laid;



laid; and when it was brought, the bearers carried it down hastily, Tom reprimanded them for it, saying, carry the child down like a christian, and don't ride post with it; the nurse acquainted her mistress with it, who answered, poor Tom loved mine and his own child very well; which was a plain confession.

Tom had the impudence to knock at the plaintiff's windows, singing,

*Cuckolds all of a row*

*My Lord-mayor is coming. &c.*

The servants ran out, and soon perceived who it was; the steward inform'd his mistress of Tom's proceedings, that my lord O----, Mrs. H---, and Mrs. C----'s family look'd all out of their windows, to which she answered, Tom is not a lord or an earl, if he was, Mrs. H---- would have taken him in, and not suffered him to be mobb'd.

**All**



All the servants were ask'd concerning the behaviour of the plaintiff; and how little he deserved this usage, who said, he was the best of masters, and the best of husbands, and whenever she came home from visiting, would take her up in his arms, and call her his life, his angel, with several other endearing expressions.

This was the substance of the evidence, which was summ'd up with admirable clearness and judgment, with a becoming sharpness against such wicked doings, that it was the highest affront that could be offered to a man, an irreparable injury, and so it was left to the jury, persons of great note and distinction, Sir Thomas Cross, being the foreman, who withdrew, and in a short time return'd, and gave the plaintiff 5000 pound damages. But Jones slipp'd out of court before the verdict, and got into the Mint; where he absconded.

Mr.

Mr. Dormer after this, sued to obtain a divorce, a Vinculo Matrimonii, in Doctor's-Commons, and his infamous wife had the assurance to sue for the restitution of conjugal rights; the court allow'd her, during the dependance of the suit 300 l. per annum, which was too much by the whole sum for the maintenance of so ungrateful a creature.



THE

Mr.



**THE**

**BETWEEN**

Sir *W---m M---rr---s*, Bart. Plaintiff.

AND

Lord A--- F--g--r--v. Defendant.

FOR

# CRIMINAL CONVERSATION with the

R. ----- . May it please  
your lordship, and you gen-  
tlemen of the jury; M--r--  
r--s is plaintiff, and F--z--  
--y defendant. The declaration sets  
forth, that the defendant, on the ---  
day

day of ----, in the ----- year of the reign of his present majesty, and on other days betwixt that day, and the ---- day of -----, then next following, with force and arms, at the parish of -----, in the county of -----, did debauch and carnally know lady L-----, the wife of the plaintiff; whereby he was deprived of the comfort and society of his said wife, and did other enormities to the plaintiff, to the damage of ---- : and therefore I hope, when this is proved, that you will give a verdict for the plaintiff.

Mr. ----- . My lord, and you gentlemen of the jury, I am counsel for the plaintiff, who hath brought this action against the defendant for infamous commerce, or criminal conversation, with his wife; which, I may venture to say, is a crime the most injurious and scandalous, cruel and barbarous, that can be introduced into a family; and for which no compensation can be made to the person

person injured, equal to the injury he hath sustained. Among the many miseries and calamities that a transaction of this kind brings on the person injured, even this prosecution, at this instant of time, is none of the least ; by reason of his being under a necessity to expose to the public the misconduct and failings of a person who stands in the nearest relation to him ; and for whom he had the greatest kindness, and with whom he had the nearest intimacy ; and who formerly had likewise fixt her affections on him : I say, that even this calamity must render the case extremely afflict- ing, especially to a gentleman of a noble and generous spirit, to lay open before you a thing of this nature : but as there is an absolute necessity for so doing, in order to the preservation of the family, and receiving such satisfaction and justice as the law allows, by way of punishment for such an heinous offence and in-  
 Vol. I. M jury,



jury, I shall lay the case briefly before you.

This gentleman, M----, was married to lady L-----y sometime in the month of -----, and he was endued and furnished with every thing, one would think, that could contribute to the happiness of any woman ; such as an agreeable person, a plentiful fortune, and one who had the greatest and strongest affection for, and indulged her in every thing that she could desire. Agreeable to the plaintiff's just expectation, he and his lady lived very happily together for some years ; and, indeed, one would wonder how it could otherwise be, or that their happiness should ever have been disturbed, or that the lady, who had every thing to make her felicity continue, should, at last, abandon her honour ; be regardless of her husband ; and alienate her affections from him : but the wonder will, in a great measure, cease, when you see the whole scene laid before you, of the defendant's

dant's constant and unwearied insinuations, in order to ensnare and vitiate this lady, and betraying her at last. I shall therefore endeavour to open and lay before you this infamous transaction, as will appear from our evidence, with as much decency as I can : and here our evidence may be considered in three parts. 1st. The assiduity of the defendant in his attempting to gain the affections of this unfortunate lady, and getting into intimacy with her : the 2d part will be to prove the infamous crime itself, with which he is charged in the declaration ; which, if it comes up to my instructions, there will not be the least room to doubt of his being guilty of it : and the 3d part of our evidence, will consist in some very strong and notorious circumstances, which serve to confirm his being guilty.

As to the first, it will appear to you, that, from time to time, for a long time together, the defendant was

constantly an attendant on this lady, in all public places; such as plays, operas, assemblies, and other public places of resort; and was very particular in his behaviour towards her, by addressing himself entirely to her, and leading her to her chair or coach, with other acts and circumstances of his gallantry; and though there might not appear any thing then to be criminal in such kind of conversation and behaviour; yet, when the consequence thereof becomes fatal, as in the present case, then it plainly shews, even to conviction, with what intent and views the defendant practised these gallantries and acts, which were to insinuate himself into her esteem, in order to seduce her at last. After the defendant had thus ingratiated himself, and gain'd her affections, according to his expectation, you will find a greater intimacy happened afterwards, as the consequence of his insinuation. The circumstances of this intimacy are very extraordinary; I think

I think the lady had a young gentlewoman in the family, who attended her as her companion ; by whose evidence it will appear, that the lady's virtue was, or could be soon and easily shaken, and that she gave my lady such fair warning of the defendant's design, as might have alarmed her ; for, I think, about the ----- day of ----- when the defendant, and the lady, and this young gentlewoman were together, in my lady's house in *D* frequent pretences of occasions were laid hold on to send this young gentlewoman out of the room ; one time to fetch a snuff-box ; another time to order the tea things to be taken away, though there was a bell in the room, and proper servants in readiness to do such offices ; and who always did such things, except at this time, when the defendant and the plaintiff's wife wanted to be private by themselves. This sending her out of the room, was observed by one of the plaintiff's family,

mily, who desired her to return into the room, and not to stir out of it, till the defendant was gone, which she did; and it was resented and taken notice of by the lady, who said to the defendant, *This young gentlewoman is out of humour because you are here.* To which she answer'd; *That she was, indeed concern'd about it.* To which the lady replied, *That if it was not for ugly ladies and prudes, others would not be censured.* Upon which, the young gentlewoman said, (and which will be found to be too true, and is a very good observation) *That though men had inclinations often to make libertines, or to make too free with [the female sex; yet they were as much prudes at the heart, as any ugly woman could be:* and when this young gentlewoman saw such doings, she thought that she might suffer in her reputation; and therefore left the lady's house: and, I must say, that it had been well for the lady if she had aken the young gentlewoman's hint

or



or warning about the defendant's dishonourable design: but, instead of doing so, you will find, by another young gentlewoman's evidence, that she despised it; for, about a few days afterwards, the lady, with this young gentlewoman along with her, went to (E), in the county of -----, the seat of -----, where she continued about ---- weeks; and on their return to (F) the defendant's servant came to meet them about a few miles from (H), and rode round the coach or chariot, and looked into it, with a great deal of care, and rode back again. On which, the lady ask'd the young gentlewoman, *If she knew who that was?* who answered, *That she had seen him before: Yes,* says the lady, *and so have I too.* Now, you will see the reason of the defendant's servant riding round the coach, from what follows; for as soon as the lady's coach came into the yard, at the Crown in the said town, the defendant appeared, and spent the evening

ing with her there, and supped with her in the parlour by themselves, and staid up alone together 'till about two or three in the morning; though it will appear likewise, that they staid up together other times, 'till four or five in the morning. Surely these things will not be reckoned on the foot of common visits: I think not; for these actions are enough to ruin the character of any woman; and when he could persuade her to do such things, it was easy for him to bring her to do any thing.---Then, the next day, the lady went to her house in (F), where she had not been long; I think, no longer than the Monday thereafter, 'till the defendant came there, and staid up with her 'till about four or five in the morning. It will likewise appear to you, that he was often with her at very unreasonable hours; and that there were particular orders given to the servants to watch the door, and that none should interrupt them, nor come  
into

into the room, 'till they had first knocked at the door. You will likewise find, with relation to these visits, that though she was undress'd, and going to bed; yet, when the defendant came to her, at such unreasonable hours, she would immediately dress herself, and come down to him; and that she ordered her maid-servant to go up to one of the footmen, who were then both in bed, and get the key of the wine-cellar from him; and to desire them not to get up; and that this maid-servant often went into the room, and found the defendant and her ladyship always sitting close together on a couch. Their criminal familiarity must, in part, be gathered from circumstances of such kind, because it is hardly possible to conceive, that any could be so far abandoned, as to do it in the presence and company of others, though you will find that there will not be wanting evidence enough to prove it, as far as can be reasonably expected:

M 5

again,

again, you will find that there is one circumstance more with regard to these visits ; which is, that in all these visits he carried with him pistols and instruments of violence, into the room, and laid them close by him ; and tho' it is usual for persons of quality to ride with them ; yet it is not possible to think, that the defendant would always carry them into the lady's room, and lay them close by him, if it was not to prevent the interruption of his conversation, or criminal familiarity with the lady, which nothing but violence could do ; but if it is difficult for you to imagine the design of the defendant, in having those arms close by him, you will find, at last, by the defendant's own declaration, that he carried them to prevent such interruption ; and that the first person of the family that came into the room, to disturb them, should be a dead man ; and I defy any man, whose mind is tinctured with virtue, to form to himself any other



other design of the defendant's laying the arms by him, than that of a cruel ruffian, who is in criminal conversation with another person's wife, embracing her with one hand, and holding out a pistol with the other, to commit murder, if he is interrupted. This is another circumstance of the guilt, and which must fill the person's mind with horror, that intended to attack him; and therefore, if the defendant had any thoughts of committing murder, if disturbed, then it would have been dangerous for the plaintiff, or his family, to have endeavoured to prevent such criminal conversation, for fear of bringing this further calamity of murder on his family: indeed I cannot think that a person can be altogether so void of virtue, as to design murder at the first, before he had seduced her; yet I do say, that no man knows how far he might go on in vice, when once he had been engaged in it. There are, in all these circumstances,



other things included, which I chuse rather to waye than mention now.

I now come to the second part of our evidence; which is to prove the infamous crime itself, charged on the defendant; and here you will give me leave to mention a scene that happened on a particular day, which our evidence will give you a particular account of; where it will appear, that the defendant did proceed to the utmost extremity of the crime with the lady; and tho', as I hinted before, it is impossible for men to expect full and compleat evidence of every thing of this kind, yet you will find, at least, the strongest evidence that can be reasonably desired or expected: and here you will observe, that this lady did, as all other persons of distinction, be their quality ever so great, must sometimes do; that is to say, put confidence in meaner persons, and even in the meanest of their own servants; and therefore, on occasions of this nature, it will

will be no wonder to you to find, that the lady trusted one of her own servants with such a matter; for none else would, or could, engage to be concern'd therein; and therefore you will find, from the evidence of this confidant, that, on the 13th day of -----, the defendant, and another person, came down to the said town of (I) and dined with the lady; and that, soon after dinner, that other person went away, and the defendant and the lady continued together alone, and concerted this scheme between them, that the defendant should go out of the house, by eleven o'clock at night, and bid the lady good-night, in the presence of all the servants, to make them believe that he went away for that night. This scheme is not, in the least, unnatural or unlikely, if it be considered, that it was agreed upon, that he was to be let in afterwards privately. Accordingly you will find, that he did, with great solemnity, take his leave of the lady

lady about eleven o'clock at night, and said, he would come to breakfast with her the next morning; and desired the servants to take notice of the particular hour he departed, and that afterwards the lady ordered the servants to go to bed: now you will observe, that there is a door, in the lady's house, that leads from the parlour into the garden; through this door in the garden, the confidant was to let the defendant into the parlour, when the rest were gone to bed; and though you would hardly believe that the keeping of the key of this garden-door was the office of a woman; yet it was thought proper, that one of her women should have the keeping of the key that night, and, according to the agreement, the defendant came to the garden-door, and was let in by the confidant, who being asked, *Whether the lady was undress'd and in bed?* She answer'd, *No*; and desired him to stay three or four minutes 'till the lady had shifted herself; but the defendant

fendant being uneasy, he, before the  
 maid had scarce time to shift her la-  
 dy, rushed into the room; and as  
 soon as he was in the room, he un-  
 dressed himself, and went into bed  
 with the plaintiff's lady; and the maid  
 tuck'd them up together, and went  
 out of the room; and set up all night,  
 by their order, to prevent interrup-  
 tion, as what was thought proper:  
 and that, about one or two in the  
 morning, she heard a rapping in the  
 room, and went up stairs; and that  
 the defendant got out of bed to  
 let her in; and, on her coming in,  
 and seeing them in bed together,  
 and enquiring what were their com-  
 mands, the defendant said, *He was*  
*very dry, and desired some water,* which  
 she brought him, and which he drank  
 up; and that the lady had likewise  
 some water brought her, and some  
 more was set at their bed-side. Then,  
 I think about four o'clock in the morn-  
 ing, she heard another rapping; on  
 which she came up again, and found  
 the



the bed-curtains and curtain-rods fallen down; and, for fear the defendant should catch cold, the lady desired her *to fix or pin up the curtains again*, which she did. I shall say no more on this head; but that you will find, by the evidence of this witness, that they were both together in bed, and that he was guilty of criminal conversation with the lady, as will appear from the discourse which happened the next day between the lady and this servant, and likewise from other circumstances that she will give you an account of.

I now come, in the third place, to shew you another part of our evidence, which consists in some plain and notorious circumstances, which serve to confirm the defendant's being guilty of the fact that he is charged with; and here you will observe, that it was on the said 13th of -----, that the defendant and another person came and dined with her ladyship, at her house in (I), so you will likewise take notice,



tice, that, on the same day, the defendant came to another house in (I), about two or three o'clock in the afternoon, drank a dish of tea, dressed himself, and went to the lady's house there; but before he went, he ordered a bed to be made for him that night, which is the very same night that he lay in the lady's house; but though he bespoke the bed, yet he never returned to it, though his servants were in the same house that night. This is a confirmation of the evidence, which our witness will give you a particular account of.

There are other circumstances which serve to confirm this, as his letters to her; and there is an engagement, or paper, signed by the defendant, call'd, I think, by the lady, *The solemn league and covenant*. It is in these words: *(I willingly, and as incumbent in honour upon me, do declare, that I never will be unmindful of, nor forsake the lady ----- in any way whatsoever oppressed, or under difficulty; but at the expence*  
of

*of my blood, life and fortune, will vindicate and defend her, against any calumny, calumniator, or peril whatsoever.)*

And here I will venture to say, that none of the greatest masters of defence could have penn'd any engagement of defence in a more gallant stile than the defendant hath done this; but though he says, that it is incumbent in honour upon him, to declare and do such things; yet I must say, that he was very far mistaken in his point of honour.---Shall any gentleman, of the greatest fortune or fashion, think himself obliged in honour to vindicate and defend injustice, with his life and fortune? No, by no means; and therefore, tho' the defendant might fancy this to be a genteel and fashionable way of writing and thinking, and incumbent on his honour to declare and do such things, I dare say, you will be of my opinion, that he was very much mistaken in his point of honour; and that his engaging so to do, was rather a slur upon his honour.

This

This is the nature of the evidence that I shall lay before you ; which, when done, I believe none of you will doubt of the defendant's being guilty of the fact charged upon him ; and I do as little doubt of your doing justice ; but hope, that you will give a transaction of this nature, the most serious and weighty consideration, as it deserves, and not suffer such criminal conversation to go unpunish'd ; if you have any regard to virtue, morality, religion, or the laws human or divine ; not in the least doubting but that you have the greatest regard for them all, it being a crime prohibited and punished in all ages and countries of the world ; and, indeed, the principal design of all our courts of justice, and the most glorious purpose or aim that you can have in your view, is to lay all vice, especially this heinous offence of criminal conversation, under the greatest infamy ; and to deter other people from committing it to the utmost of your power ; and, at  
the

the same time, give the utmost encouragement to virtue.

Mr. -----, my lord and gentlemen, it was necessary thus to have open'd the cause. The heinous and injurious crime charged on the defendant, will be proved to a shameful degree. When I see the jury composed of gentlemen of honour, and fathers of families, I think it would be unnecessary and improper for me now to lay before you the nature of this heinous offence, which is so contrary to the laws of god and man, and is the greatest violation of that sacred property which every man ought to have in his wife; and is so contrary to all notions of honour and justice, and which introduces into particular families such unexpressible afflictions and miseries; therefore, I will not insist any more thereon, for fear of raising your passions, and inflaming your judgments; so I shall call our evidence, and submit it to you.

I sup-



I suppose they will admit the marriage. [Here the other side answer'd, *Yes.* Then the plaintiff's counsel call'd all their witnesses, who proved exactly as was open'd, and the defendant's engagement and letters to the lady were read, [on which the defendant's counsel afterwards made their observations.) Then the plaintiff's counsel said, they had done for the present. Then the defendant's counsel made their defence, as follows.]

*S. G.* May it please your lordship, and you gentlemen of the jury, I am counsel for the defendant, who little thinks that you are, at this time, sitting on him, or any of his actions, he himself being now abroad, in the service of the public; and it would have been but kind, when he was arrested as going to (K) in the publick's service, if the plaintiff had staid 'till the defendant had an opportunity of returning, and laying things before you, for his defence; but as plaintiffs have a right to bring their actions when-



whenever they will, and to their best advantage, so the plaintiff here, has chosen to bring his, when the defendant is absent, and cannot answer for himself; and who hath not been at home three hours since he was arrested in this cause; and therefore it is incumbent on us, who are counsel for him, to make as good a defence as we can, according to our instructions. The counsel for the plaintiff have laid before your lordship and the jury, the most unhappy circumstances of the plaintiff; and that they are such, as that he cannot be involved into greater; and they would represent unto you, that the plaintiff hath been involved therein, by the unlawful intimacy of the defendant with the plaintiff's lady. With regard to the plaintiff's melancholy circumstances, nobody can have a more fellow-feeling for him, than I myself have; for I can easily represent to myself, what misfortune and trouble it must be to have such affliction as  
this

this brought upon him; but then I must say, that it will not follow, that, because the plaintiff is to be commiserated, therefore this defendant is to bear the burden of his misfortune. If I can shew here, that the defendant was not the occasion of bringing this misfortune on the plaintiff, we hope that his melancholy circumstances will have no weight with the gentlemen of the jury, notwithstanding what hath been offered by the plaintiff's counsel, as an attempt towards proving the defendant guilty. The gentlemen, who were counsel for the plaintiff, attempted, in the first place, to shew, that there was guilt in the defendant; and in the second place, to aggravate that guilt, in order to induce the jury to believe that the plaintiff's complaint was well founded, and intitled him to great damages in this cause; but we hope to meet them in both these circumstances, I shall begin with the first of these, which is to consider the  
evi-

evidence laid before your lordship and the jury, and shall submit it to you, whether there is any guilt proved in the defendant? To prove his being guilty, they have called a great many witnesses; but, notwithstanding that, and though they opened, that they would prove the infamous crime itself to a shameful degree; yet you may perceive, that the fact itself depends only upon the evidence of one witness, which is liable to objections, and is very improbable. They first call'd a young lady, one miss (L) who proves no more, than that the defendant and the lady's acquaintance began only about the latter end of ----- last, when my lady and she was at the play-house, where the defendant, after the play was done, came into the next box, where my lady was, and spoke to her as is common in such places; but nothing particular pass'd betwixt them at that time; and that he did not so much as hand her into the coach, and that another  
gen-

gentleman had that honour. This was the first time they became acquainted. Then she says, that the defendant did, some time in -----, about three weeks afterwards, make a visit to my lady at her house in (D), to which she had removed from (M) after the death of the child; and that the young lady herself was in company with them, and that her lady was going a journey, and packing up her jewels, and desired her to look for such a snuff-box, and to order tea to be brought, and that she returned with the snuff-box within ten minutes, and found the tea brought up, and the defendant and the lady sitting as she left them; surely nothing can induce you to think, that there was any thing criminal in this visit; for the very circumstances of the time, and manner of it, shews that nothing past at that time, more than what is usual in the most reputable families, where people receive company and drink tea; but the gentlemen of the



other side would represent it, as if she had been sent out of the room on purpose to give the defendant and the lady an opportunity of saying or doing what was not decent; because the bell was not rung, instead of the young lady's going; and because she was sent on another errand, to desire the tea things to be taken away, though she says, she returned within ten minutes, and found the tea things taken away.

The next meeting between the defendant and the lady was at a publick-house or inn, as she returned from (E), where she went about the beginning of ----- last, and staid there five weeks and return'd, and in her way she supp'd with the defendant at this publick inn, the Crown in (H); but I don't think, on the evidence of (N) or (O), that there was any thing indecent past between them:----they met together at this publick inn as travellers; and, the defendant being acquainted with her, they supp'd together



gether as travellers. It is not in the least insinuated, that there was any criminal conversation between them; and it is no wonder that people, who have some acquaintance together, should stay up some time together after supper.

The next meeting of the defendant with the lady was at (I), when the apothecary (P) was with him; but he does not so much as insinuate, that there was the least indecency past between them; but declares, that the defendant went to lie at the inn that night; nor, indeed, do they pretend to say, that the defendant ever lay at my lady's, except that night which (Q) speaks of, which brings me to consider her evidence; and what she says was done on the 13th of ----- last, the night which she says he lay there; for the whole account of that night's transaction depends on the evidence of this (Q) the cook-maid; for though there were several servants in the house that night, yet they have

not ventured to call any other person except her, and have chosen to rest it on her evidence ; and you will be pleased to observe what a strange account she gives of the transaction :--- she owns that she did not come into my lady's service, nor had any acquaintance with her, 'till about the middle of ----- last, and that she was not hired by the lady ; but that she was introduced into the family by the intervention of Mr, (R), who appears to be a friend, agent, and steward of the plaintiff, and, upon some misrepresentation of things between the plaintiff and his lady, it was thought proper to confide in her, who is represented to have lived in modest families before, which is a little extraordinary ; and it is as extraordinary to think, that she should become, in so short a time after she went there, so great a confidant of the lady's, as to be admitted into all her secrets, especially her intimacy with the defendant. The thing itself is  
 very

very improbable: and, to introduce this story, she gives an account, that a little after she went to (I), the defendant came down to visit my lady; and that he was in the lower room; and that the two footmen were gone to bed, and my lady in her bed-chamber, almost undress'd;-----and that she went up to tell her lady of his being below, who immediately dress'd herself again, and came down to receive the defendant on the ground-floor.-----They have represented this as an immodest visit, though he staid 'till she had dress'd herself, and had come down to receive him on the ground-floor. If it had been an immodest visit, she would not have staid to dress herself. And then this (2) tells you what was done afterwards; she says, her lady order'd her to go up to the footmen, and get the key of the wine-cellar, and to desire them not to rise, because she was to be butler that night;-----and that she made the defendant's footman wel-

come that night, and that he and she had mull'd wine; and that the defendant and my lady had only raw wine; and that, when she went into the room several times, she saw nothing indecent, nor was there any bed in the room. But, say the gentlemen, though there was no bed, yet there was a settee in the room, which was brought there on purpose for the defendant's reception and accommodation; but this does not appear to be the design of its being placed there; but that it was put there in the room of a harpsichord, which stood there formerly, without thinking any thing of the defendant. This is all that was previous to the 13th of -----.

During all the time preceding this day, I hope there does not in the least appear any thing like criminal conversation, or indecency in the defendant; which leads me to consider what she says happen'd that day. She gives an account that a noble lord and the defendant came down that day



day to dine at my lady's house in (I), and that the noble lord went away a little after dinner; but that the defendant staid behind him; and that, when they were together, my lady sent for her into the parlour afterwards, where the defendant was standing with his back to the fire-place, and asked her, *If she could be entrusted with a secret?*-----Observe this modest woman, who had always lived in good families before, presently understands her lady's meaning; and this virgin immediately said, *That they might intrust her with any secret, and that they might depend upon her, and that none should interrupt them that night:* she presently falls into the proposal, without the least reluctance, and understands the secret before it was told her.

Then she gives an account of laying on another pillow more on the bed; and that the defendant, in order to blind the family, made a pretence to go away that night about eleven

N 4

o'clock,



o'clock, and went by the place where the servants were ; and, in their hearing, not only bid my lady good night, but the servants : and then she tells how she let the defendant in again, by her being furnished with the key of the garden-door. It would have been material to have called the person whose province it was to keep the key before that night, and tell how she was then furnished with it : however, she says, that she did let the defendant in again, within half an hour, and that he saw Mrs. (S) warming her ladyship's shift, which made him the more impatient ; and that the defendant could not stay until this (Q) had taken up her shift, and put it on her ladyship ; but that the defendant came into her bed-chamber, before my lady was undressed ; and says, that she saw the lady go into her bed, after she was undressed ; and that the defendant, after he was undressed, went into bed to her ; and that she tucked them both up ; and that

that she stood centry within hearing, to prevent anybody's interrupting them, and to furnish them with what they wanted; and that about two o'clock in the morning she heard some bustle or noise in my lady's room; on which she went in for orders; and that, according thereto, the defendant had a pint of water, because he was *warm*; and that my lady had another pint, because she was *warm* too; and then she retired, and staid 'till she heard another *bustle*, which was some time afterwards; when she went in again, and found the curtains thrown down, though one would have imagin'd, that they would rather have been thrown down on her hearing the *first bustle*. And then she says, she staid about half a quarter of an hour to pin them up; and, in order to induce you to believe her, and that things were concerted, she tells you, that this occasioned mirth to her, as well as to the defendant and the lady: but I think there seems to be a contradiction, with respect

respect to the orders given her, of her being on the watch, that nobody should come near to her or know what they were about; for she tells you, that my lady recommended her to something that must hinder and put her out of her watch; which was, that she might be as *free, merry and happy* with the defendant's man, as she was to be with his master.

*L. C. J.* I think it was after dinner that she had orders to be on the watch, and to take care that none of the servants should come near to hear-ken at the door while they were there.

*S. G.* I know there were orders given in general to take care of the door, and that none should come in without first knocking; besides, with submission, I think it is inconsistent; for if all the servants were so fastened, or shut up, there was no occasion for her standing centry.

*L. C. J.* That is not warrented by the evidence; if you are in any doubt, you must examine her again;  
for

for there were no directions given her to watch the lady's door at night. I will tell you her evidence; she was ask'd, *If she could be intrusted with a secret*; and her answer was, *Yes*; or *she would take care that nobody should come near her, nor interrupt them that night*.-----I have taken it down.

S. G. I think she was up all night for that purpose. After she tells what past that night, the 13th of -----, she tells your lordship and the jury, that she was employed by my lady to wash her linen afterwards; and she makes such observations thereon, that any single or modest woman would be ashamed to mention. Then she tells how she was introduced into the family; of which I have taken a little notice of before; then she tells where she was before that; and that she hath, since her being dispos'd from the lady's service, been taken into the plaintiff's service: and then she gives a very romantick account, as I think, of her being taken into custody, and



afterwards discharged; and then making an affidavit afterwards. She says, that there were about five people that took her into custody, whereof (R) was one; and that they never told her, nor had she the curiosity to ask them, for what she was taken up; and that she continued in custody from ten in the morning, 'till about four in the afternoon, and knew not for what; nor does she give any reason, why she was discharg'd out of custody; but, at last, with a great deal of difficulty, she was brought to declare, that she had nothing to say in the affair, about the detendant and the lady; which, she said, was the reason of Mr. (R's) consenting to her being discharged. Then she says, that while she was in custody, Mr. (R) called her bad names, such as hitch, and the like; and they offered her no encouragement, nor yet to be her friend, or to let her out of custody, in order to make a discovery of the affair; and yet she says, notwithstanding all this, when she



she was discharged out of custody, she went to (M) and made an affidavit, containing every thing relating to the affair, as she hath deposed here. This is such a monstrous account of the transaction, that I submit it, whether it will not greatly invalidate her evidence; which is the only one to support the criminal conversation alledged.

Then, to confirm (Q's) evidence, by circumstances, the gentleman called (T) at (I) and her maid, who say, that the defendant ordered a bed to be made for him there that night; but that he did not come to it that night.

Then they called another witness (U), who says, that the lady embraced the cook-maid, and said, *She was glad to see her*; and that the cook embraced the lady, and returned the compliment. This was to shew the intimacy of the lady with the cook, and the great confidence that she had in her.

Then

Then they called another witness (V) for the same purpose. He says, he went down to seize my lady's jewels and papers, and to confine her; but she thought proper to elope that night out of a window; and that he perceived great intimacy between the lady and the cook.

The last circumstance that the gentlemen produce, in order to confirm the defendant's being guilty, is letters; and the first they read, to which they were pleased to give the appellation of *solemn league and covenant*, I think proves nothing of the criminal conversation; for the utmost they can make of that letter is only to shew the assiduity of the defendant in being acquainted with the lady.

The next they read was dated the 23d of -----, ten days after the said 13th of -----; wherein he only compliments her, and says, *That he is ever thinking of her, and wishes her every soulasement.* This, I am sure, does not prove any thing criminal, or shew that

that the lady had granted him any uncommon favour before that.

The next letter says, *That he had not recovered the injury that he did himself by the last journey.*-----Pray can any body infer criminal conversation from these words? I am sure they cannot; nor can they imagine any such thing, by their sitting up late after supper, in the public inn, where they accidentally met together. The most that can be made of any expression in these letters, is, that they only shew the assiduity of the defendant, to gain the lady's favour; and suppose there was assiduity used, and that my lady repelled that assiduity. I only mentioned it, in that manner, because such a thing may be supposed; but how to infer or make out that there was any thing criminal before, by the expressions in these letters, I am at a loss to find out.

This, I think, is all the evidence offered on the part of the plaintiff, to induce you to believe, that their ac-  
tion

tion is well founded ; and that there hath been criminal conversation between the plaintiff's lady and the defendant : it depends only on the evidence of a single witness, which, as I have observed, is very slight : and as to the assiduity, it appears to commence no sooner than the latter end of ----- last ; therefore I submit it whether you can, in your conscience, conclude, that the defendant is guilty of criminal conversation on these circumstances that I have mentioned, and on the single evidence of a woman, who hath owned, that she hath behaved herself very immodestly, and prostituted herself so far as to be a transactor of such a vile affair.

And as the gentlemen hath submitted this to you, on the single evidence of that witness, and circumstances mentioned : and, as it is impossible to know beforehand your opinion, whether he is guilty or not guilty of the crime charged on him ; therefore it will be necessary to say a few



few words, with regard to the circumstances of his guilt, or the nature, degree, or aggravation thereof.

There are two things to be considered by you ; 1st, Whether the defendant is guilty or not ? 2dly, If you believe that he is guilty, then you are to consider in what degree he is so, and to give damages accordingly : and here I cannot help saying, that the two learned gentlemen, in the setting out of this cause widely differ'd from one another. The second said, that it was unnecessary to insist on the defendant's guilt, and would not attempt to raise the passions of you worthy gentlemen, but submit the circumstances of the case entirely to you ; but the other gentleman made use of all the flowers of rhetorick and oratory, to induce you to believe that there was greater guilt than ordinary, and hath represented my client, as having it in his mind to commit murder and adultery ; and that he came there so entirely void of humanity,  
and



and fear of God and men, as to commit both, if interrupted. They have likewise set forth the heinousness of the crime to the utmost degree that rhetorick was capable of; and have told you, I think, that it is invading of that sacred property which every man ought to have in his wife. They have likewise told you the danger and evil consequence of the crime; all with a design to induce you to give great damages; and, in their declaration, they have declared, that the defendant did not only commit this crime, but that the plaintiff was thereby deprived of the comfort and society of his wife: and I must admit, that (if the defendant hath, by his assiduity, prevailed with the lady to injure her husband, in the manner charged, by debauching her; and that that is the reason of all the misery and loss that the husband hath sustained) these circumstances will have weight to heighten the damages: but if these are thrown into the wrong scale, then they

they must, of consequence, lessen them. And though they opened, that the defendant, by his constant, unwearied and long assiduity, attendance and importunity, at last prevailed with the lady; yet they have not been able, in point of evidence, to carry it further back than the latter end of ----- last, according to miss (L's) evidence: and that the lady, after that, went out of town, and staid five weeks; so that the meetings at (H) and (I) were all in the months of ----- and -----.

This being the state of their evidence, I thought it [necessary to examine one of their witnesses, how my lady spent her time before that; and was told, that in ----- or -----, about two years ago, my lady went to Bath, and staid a considerable time there; he seems to fix her staying there 'till Lady-Day thereafter; and that the plaintiff came to her when she was at Bath, in expectation that she would have gone down with him to his seat in

in (*W*), and that he used a great deal of importunity with her to go along with him; but she refused, and insisted on her staying at Bath for the sake of her health: so that the plaintiff went to (*W*) by himself, and that his lady staid behind him about three months, and then came down to him at his seat in (*W*), and staid there with him 'till the meeting of the parliament; which brings it 'till about this time twelvemonths, or last Christmas, that they came both here to town to the house at (*M*); and, on the death of the child, they went from thence to (*D*). After this the plaintiff went out of town, about the latter end of ----- last, and left his lady behind him: he went to his other seat in (*X*), and within a few days afterwards, the lady went to (*E*), and from thence to (*I*). This is the history with respect to the time: and if I was not well-warranted, from evidence, under the plaintiff's own hand, which I have to lay before

before you, and which is in favour of the defendant, it would ill become me to trespass on this lady's honour. I shall shew you, that when the lady was at Bath, as it hath already appeared to you in some measure, the plaintiff came to her, and importuned her very much to go with him to (W), but she refused to go, and told him in plain English, *That she would not be buried with any (W) baronet whatsoever*; and so he left her at Bath, behind him, with much uneasiness: and it will plainly appear, that all the misfortune, which I cannot speak without concern for the plaintiff, hath been owing to the plaintiff's leaving the lady at Bath, and to the company which she kept there; and I hope it will not be insinuated, that the defendant kept her company there; for we shall fully prove, that he was at that time out of the kingdom with (Y) all the while. He went in ---, about six months before the lady went to Bath, I think for Lisbon; and set  
 fail



fail again from thence the 8th of  
 ----- thereafter, which takes in all  
 the time that the lady was at Bath ;  
 and it hath plainly appeared, that it  
 was a long time after that, before the  
 defendant had any intimacy or ac-  
 quaintance with the lady. And here  
 it will be necessary to shew you what  
 opinion the plaintiff had of his lady's  
 behaviour at Bath ; and what it was  
 that made him separate himself from  
 her : and it will also appear, that he  
 took up this resolution to part from  
 her, on account of her behaviour at  
 that place ; and as they have not fixt  
 the time of the defendant's first meet-  
 ing with the lady, any further back  
 than that at (H), which was some  
 time in ----- last, it is proper to  
 acquaint you with what the plaintiff  
 wrote to his lady on the 2d of -----  
 before. Here he read thus : [*Madam,*  
*I am very sorry that I am under a ne-*  
*cessity to write to a person, who, I know,*  
*hates and despises me.*] This was said  
 by him, before there was any pretence  
 of



of the defendant and the lady's being acquainted. Then he goes on, and says, [*I told you, before I left London, that I was determined to part,*] which shews, that it was not occasioned by the defendant's seducing her, in the plaintiff's absence; for he says, *I told you, before I left London, that I was determined to part.* Then he goes on, [*Give me leave to say to you, that if you had not staid behind me, at the Bath, and entered into such a vicious and abandoned set of acquaintance, we might still have been happy.*] He is so far from mentioning or meaning the defendant, that he expressly imputes it to her staying at the Bath behind him, and keeping company with vicious people: and then he says, [*From that source our greatest calamities flow, and if you had searched the world for people compleatly infamous, you could not have found out any more abandoned and wicked than those you were so often with; and I have never been easy in my mind since that time*] meaning the time that he

he left her behind him at the Bath, about Christmas ----- near two years ago. And then he says, (*My ill health, I can safely venture to say, was occasioned by it: I once loved you to madness; but your scorn and contempt of me, have made me withdraw my affections in a great measure from you.*) This is the letter wrote the 2d of ----- last; but there is another letter from him to his lady, dated the 7th of the same month; by which, you will perceive, that tho' the plaintiff had great reason to complain of her, yet the ground of that complaint was laid before the defendant's acquaintance with her. In this letter of the 7th of -----, he says, [*I received your letter, and, in answer thereto, I must tell you, that I am determin'd to part, and whatever the world says, I am not concern'd about it; I am already as unhappy as I can be.*] Was this occasioned by the defendant? No, he could not then have him in his thoughts. Then he says, [*I assure you, had I not been fully perswaded*  
that

*that I was wronged, I could never have prevailed with myself to have come into this melancholy resolution; I know you have wrong'd me.]* What does the husband mean, when he writes to his wife after this manner? That he is resolv'd to part, and that she hath given herself up to vicious and abandon'd people's company; and that he was sure she had wrong'd him. And then he afterwards adds; [*And it will add but very little to my comfort to hear, that you have behaved well when from me.*] I say, what does he mean by writing to his wife after this manner? Now, suppose you were satisfy'd with respect to the fact of criminal conversation; yet can you, in your conscience, lay the whole load of the plaintiff's misfortune on the defendant? Does it appear to you, that he first seduced her; and that she was not suspected by her husband before that? Or, can you, on your oath, say, that, by the interposition of the defendant, the plaintiff hath lost the

comfort and society of his wife, as in the declaration, for which he lays damages? No, you cannot say so; for you cannot but be satisfy'd, when you hear the plaintiff's letters to his wife read, that the foundation of all this misfortune was laid before, by her behaviour at the Bath, in the year -----; so that, however you think of the particular fact imputed to the defendant, you cannot take this into your verdict; *that the plaintiff thereby was deprived, and lost the comfort and society of his wife*; especially if you consider that it appears from the evidence, that this house at (I) was taken and appointed for the lady, and the servant (Q,) put upon her; and that the plaintiff had actually left her, and gone into (X), and had sent her these letters, when he was in (X) or on the road thither; wherein he says, *He knew that she had wronged him, and it would be but little comfort to him to hear of her better behaviour, when parted from him, as I mentioned before*;



fore; and therefore you cannot give great damages; tho' it should appear to you that the defendant is guilty of the fact imputed to him; because there is a great difference between him that first seduces her, and him that comes to be acquainted with her, after she was so seduced. And it is plain that he who first seduced the lady, is the person who hath been the author of all the plaintiff's misery and misfortune; as appears from his own hand-writing.

As it is impossible to know your opinion, whether the defendant is guilty of the fact or not; so it was necessary to say something with respect to the quantum of the damages, in order to mitigate and lessen them, in case you should find him guilty: but tho' I am speaking of the damages, yet I am very far from admitting, that it hath been proved that the defendant is guilty of the fact charged upon him; but I insist on the contrary, and must leave it to your considera-



tion and opinion, whether, on the single evidence of (Q), which is very defective and suspicious, you can find the defendant guilty of the fact charged on him; and whether you can say, that he is the author of all the plaintiff's disquiet; and deprived him of the comfort and society of his wife; and whether the plaintiff had not determin'd to leave his wife before the pretended criminal intimacy of the defendant with her; and whether the plaintiff had not actually left her, when he had gone into (X) and had taken a house in (I) for her. I submit it to you, whether you can, under all these circumstances, think it proper to find a verdict for the plaintiff, and load the defendant, who is just come to age, and a younger brother, and now out of the kingdom, with the plaintiff's misfortune? I should rather think, that as the plaintiff's misfortunes are laid at other people's doors, you would not think it reasonable to load him with them; but that you will find a  
 verdict

verdict for the defendant: and, if you should think proper to find it for the plaintiff, I submit it to you, whether under all these circumstances I have mentioned, you can give any considerable damages to the plaintiff.

*Serj.* -----, my lord and gentlemen, I am likewise counsel for the defendant. It is, indeed, a great misfortune of his, that he is now absent; and it cannot be expected, that he is capable of defending himself, or to give proper directions to his counsel for that purpose. There are two things to be considered by you: first, whether there is sufficient evidence before you, that the defendant is guilty of the fact charged on him, or not? And if you think there is, then the second thing to be considered by you is, in what degree he is so; and what damages you are to give on this occasion, and under the circumstances that have been mentioned? As to the first,

Whether there is sufficient evidence, or not? I submit it, that there is not

you

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sufficient evidence, taking it all together, of the defendant's guilt, but rather of his innocence. And here I would take notice of what (N) declares; she says, *That she was a long time in the service of the plaintiff and his lady; and, I believe, she is now in the plaintiff's service; and, that her employment was to put her lady to bed every night; and, that she never saw any body in bed with her; but that she lay single.*

Then they bring in one (O) who is supposed to be hired by the plaintiff, as footman to my lady; who, on cross-examination, says, *That he never saw any thing indecent between the defendant and the lady all the time he was with her; and who seems to have been sent there as a spy; and it appears, by their own evidence, that these two witnesses are now kept by the plaintiff as his servants. These two do not prove any thing of the defendant's being guilty, but rather shew that he is innocent of what he is charged with.*

They

They have, indeed, produced another witness, (Q), who says, *She was sent by one (R) the plaintiff's agent, to be hired, who sent her to (Z) at (M), who hired her to be cook to the lady, to go down to her house at (I). And when is she sent down there? She is sent there after the date of these two letters sent by the plaintiff to his lady, acquainting her of her behaviour at the Bath, and his resolution to part: and, when this witness came down to (I), she gave a very imperfect account how she came there, and what past. She says, She was hired by (Z) to be cook, and that she brought no letter to my lady about her being hired; and had no discourse with my lady, as I could understand, about it, to the purpose; and hath ever since been in the plaintiff's house in the country, and came up to town from thence to be a witness; and that, her wages was paid her by the plaintiff's agent; and, as I said before, this transaction, that she gives an account of, is some time after the date of the*



two letters sent by the plaintiff to his lady, acquainting her of his resolution to part; and, as the circumstances was such, and as this cook was put upon her, it must be allowed, that it was necessary for the lady afterwards to be on her guard, and to be cautious and reserved, with respect to the cook; therefore I submit it, whether it is probable to imagine, that the lady should immediately make this witness her greatest confidant in the world? And how long is it that this witness lived with the lady? It was not above five weeks from her coming there to the 13th of -----, which is the day that she says the fact was committed: besides, she was not particular to the day when the lady began first to put confidence in her: and, I must say, that there was not a servant in the lady's house, but might have known what past that 13th of ----, and before that, as well as her: and I submit it to you, whether it is not dangerous, in such a point as this, and  
attended



attended with such circumstances as have been mentioned, to think it sufficient to prove the fact, only on the evidence of such a single witness as (2)? And whether it will not be an easy matter to induce others to bring such actions wrongfully? And pray consider a little some things that this woman tells you; she says, *That, in one minute of that night, she was very much frightened in bringing the water, lest some people should come and kill the defendant; and then she tells you, That, a little after this, when she was called into the room, that she fell a laughing at what happened, as well as the defendant and lady themselves.* There is another part of her evidence which must be submitted to your lordship and the jury, whether the thing, in its nature, be credible and probable or not? She said, *That my lady took up a pistol, and said, That she would shoot, or be the death of, the first person who should interrupt her and the defendant.*-----Strange indeed! that a lady

of her character and family should act and speak after such a manner ; therefore, I hope you will not rest it on the evidence of this single witness, nor think it sufficient to prove the fact charged : and, indeed, the other side themselves, thinking it not sufficient, have produced circumstantial evidence thereof, as letters under the defendant's hand ; the chief of which, wherein they glory, is that which they call, *the solemn league and covenant* :-----now with regard to that, as the witness says, *That the letters from the defendant to the lady came to her after the 22d of ----- last* ; and as there is no date or time fix'd when this particular paper was written, is it not natural to think, that it was written about the time of the date of the letters ? And if so, and considering what happened on the 19th of ----, when the plaintiff's servants came with blunderbuffes, &c. to confine the lady, and who expected to find the defendant there ;-----I say, if such things were

were so, and as he was conscious of his own and the lady's innocence, was it not natural for him to say, *That he would defend her, as innocent with respect to him, against any calumny, or calumniator whatsoever? And that he would likewise vindicate her, as well as himself, who was slandered and wronged on his account? And it must be remembered, that we are to apply to your reason, judgment and understanding, and not to your passions; for you are to consider, Allegata & Probata, and whether there is sufficient evidence produced to prove the fact charged:-----and you are likewise to consider the circumstances of things, with respect to the damages, with reason and understanding, and not be carried away by the passions; for there have been a great many actions of this kind brought with success, both with respect to damages, and with a view to influence the ecclesiastical courts. But,*

O 6 2dly.

2dly. With respect to the damages, you are to consider in what state the husband and wife lived before; whether they lived happily together, when the plaintiff received the supposed injury? Again, you are to consider, what are the circumstances of the parties before the court? What are the circumstances of the defendant? He is a very young man, hardly come to age, and a younger brother, and is now abroad in the service of the publick: and with respect to the plaintiff, it will appear, beyond all contradiction, that he had put his wife away, turned her out of his house, and hired another house for her, and now brings an action against the defendant for damages, by his being deprived of the comfort and society of his wife:-----what damages can he sustain, by losing that comfort and society, when he had deprived himself thereof before?-----For it is plain he had thrown her off, and had given his reason for it; and tells her, *That*  
*her*



*her conversation and good behaviour for the future will add but very little to his comfort.*

I hope, as he has thus expressed himself; and, that, as he is not concerned what the world will think or say about it, on the whole, after consideration of the imperfection of the plaintiff's evidence, you will think it proper to find a verdict for the defendant; which will, in a great measure, clear the character of the lady, which will be of greater advantage to the plaintiff, than his proving the crime, or getting damages; and which will likewise shew, that the defendant is innocent: but if you think proper to find a verdict for the plaintiff, as he does not value what the world says of his parting, nor the damages, I don't think that you should value the damages any more than he.

Mr. -----, my lord, as the plaintiff went out of town, to his country seat in (X) on the 20th of ----- last, we shall read his two letters that he  
sent



sent his lady, dated the 2d and 7th of ----- thereafter, which shew the reason of his leaving her. The first of them appears to have come to the lady under a cover ; and we shall prove, that they are both the plaintiff's hand-writing.

L. C. J. Was not this (Z), who hired (Q) for the lady's cook, a servant of the plaintiff?

Mr. -----, yes, my lord, she was a servant at his house in (M), she was the child's nurse : after whose death, the plaintiff gave her leave to live there.

These are the letters which we are to prove and read.

Call Mr. -----.

[Here the defendant's counsel call'd this one witness to prove that these two letters were the plaintiff's hand-writing ; then these two letters were read ; part of which are exactly as the S. G. opened ; for he only read what made for the advantage of the defendant, The other parts of these  
two

two letters, which are in favour of the plaintiff, are taken notice of by his two counsel in their following reply. Then the defendant's counsel called another witness, to prove, that the defendant was out of the kingdom all the time the lady was at Bath; and another witness to prove, that the defendant was but just come to age, and a younger brother: on which the defendant's counsel said, they had done. Then two of the plaintiff's counsel made their reply as follows:]

Mr. -----, I hope your lordship will favour me with a reply. I must own, that it is a little surprizing to me, after we have given the fullest evidence of the fact charged on the defendant, corresponding in every minute circumstance, and uncontradicted by any witness, or any thing else produced by the other side, that they should yet seem to doubt whether the defendant is guilty of the fact charged on him; and that they should, by their ingenuity, endeavour to raise objections,

jections, which may be so easily answered.

The first of their objections is, that the first part of our evidence, relating to the assiduity of the defendant to get into the lady's favour, is nothing but what is common, and is only a piece of gallantry that passes daily between great people. I did, at first setting out, say, and do again repeat it, that though that general evidence of his assiduity, simply considered, abstracted of itself, would not be evidence sufficient for the jury to found their verdict for criminal conversation; yet, I must say, that this evidence, when accompanied with other evidence of the fact, shews plainly, with what design these addresses were made; and I beg leave to say, that it is impossible for any gentleman to make doubt of the bad design that the defendant had in making these addresses, if he considers what happened afterwards; and, indeed, if we had not given this evidence, we should have

heard

heard of their objections for want of it; and they would have told us, and ask'd us, how is it possible for a gentleman, on his first meeting on the road, or at a public inn, accidentally with a lady, to be guilty of such a fact, without shewing their general acquaintance and visits before that.

Then they are pleased to say, that, after this general acquaintance, nothing appeared criminal in these visits made by the defendant to the lady. I own, that nothing, directly criminal, did appear openly and fully; but there was so much appeared to the young gentlewoman, the lady's companion, who could then be the best judge, that she thought it unsafe to stay any longer there, for fear of losing her reputation: but the gentlemen of the other side are pleased to drop a good part of the evidence, because they know and feel the great weight of it; for you may remember, that the young lady was rebuked for her being out of humour; and that



that she told the defendant and the lady the reason of it; and that it was on the account of these visits, that she left her service.

Then they say, with respect to their meeting at (H), there was nothing criminal in that; it was only two travellers meeting accidentally at a publick inn, and taking a supper together, as usual. If it had been so, I would agree with them; but the contrary plainly appears, if you do but consider the circumstances that went before: I mean the defendant's servant riding round the lady's coach, and looking earnestly into it, and riding back again; and then the lady's asking the young gentlewoman in the coach with her, *If she knew that person?* Who answered, *That she had seen him before.* To which the lady replied, *And so have I too:* and then consider what happened afterwards; they had before met with his servant on the road, and then, a little after that, they met with his master himself



self at the inn. Could this be an accidental meeting? No; it is plain that this was a design'd meeting; and I do say, a man must shut his eyes, and make no use of his senses, to say, or think, that this was an accidental meeting: and I must likewise beg leave to say, that this meeting, under these circumstances, appeared to be a little criminal, and an imputation that few would endure in their own case; that he should sit up with her so long alone, and at such unseasonable hours, as our witnesses, in their evidence, have mentioned that he did there, and in his visits, and which is not contradicted. Indeed, the gentlemen of the other side would make you believe, that there was nothing criminal in any, or all, of his visits, until that of the 13th of -----, when the fact was committed: but I am sure it is impossible to recollect that from the evidence, when you consider that all the witnesses, that speak of the visits, say, that he came with  
fire-

fire-arms, brought them into the room, and laid them by him; and then consider his declaration concerning the same; that *he would, at the expence of his blood, life, and fortune, defend the lady*; and then think, if it is possible to imagine, that there was nothing criminal in these visits. It is my duty to mention these things, though I am sorry for what hath happened; but God forbid that the jury should not do their duty; for it is plain, from all the circumstances of the transaction, that these visits were criminal.

And then they say, with respect to the fact itself on the 13th of ----, that it depends only on the evidence of one single woman, (2). As to that, I say, that it would be hard for people to conceive or think, that it could depend upon more than the evidence of one witness: it would have been shameful, indeed, to the utmost degree, if it had been publick. We should have produced more, if it had been

been possible to do it.---There were indeed, two confidants; one of them we cannot come at, but the other we have: and to say it is dangerous to find a verdict, in a case of this nature, on the evidence of one witness only, is surprizing: and I will venture to say, that every crime of this nature would go unpunish'd, and many families be ruined, if you required the evidence of more witnesses than one: and there have been many cases of this nature, where a verdict hath been found for facts, where the evidence hath not been so strong as here: but though the fact in the bed-chamber depends on her evidence, yet is she not confirm'd in many instances? I submit it to your lordship, whether it does not appear, that he order'd a bed to be made for him at the inn, on that 13th of ----; but he never returned to it that night, though his servant lay there the same night: besides, have they given you an account where he lay or abode that night?

night? Or brought the least circumstantial evidence whatsoever, to shew our evidence not true? Nor does the character of our evidence stand impeach'd; and therefore you that are on your oath, must give credit to what she says on her oath: so that, as the gentlemen of the other side have produced no instance, wherein such-like evidence hath been rejected, as insufficient, nor have they impeached, or contradicted her evidence; and as you are on your oaths, you cannot but find a verdict for the plaintiff. It would be needless to insist longer in answering that objection of the insufficiency of the evidence of a single witness.

And as to that circumstance about her making an affidavit formerly of this transaction, which she owns she did, I shall only say, that if she had not spoke here on her oath, agreeable to that former affidavit, they would have been ready enough to have taken notice of it, and contradicted her.

Then



Then they say, that it is surprizing and improbable that this lady would be so free as to place such great confidence in this woman; and that she would have been more cautious and reserved, and more upon her guard; and yet, in the very next breath, insist upon this unhappy lady's being a woman of an abandoned and infamous character: if so, where is the surprize? And though this (2) was drawn in by the lady, or by those having authority or influence over her, to agree to conceal the secret, it will not follow from thence, that she was *vile* for her so doing: it was, indeed, a weakness in her to be drawn in, but it is no degree of guilt: but suppose this (2) was that woman (which we deny) where is the reason for surprize, that one infamous person should put confidence in another?

It was taken notice of, that I had, by art, endeavoured to aggravate the guilt as much as possible. As to that, I am sure that there is no man more  
sen-



sensible of his inability that way than myself; and as it was very strongly urged, I would not omit taking notice of it; and I do say, that as it is my duty to explain the nature of facts, and the circumstances of them, I am resolved always to do it, consistent with my instructions: I am sure I would not go the least tittle beyond them, or the truth: I own that I did say to this effect; that I did not think that any person could have an intention to go and commit adultery by force of arms; and I likewise said, (and it is a certain truth) that when once persons engage themselves in any transaction criminal, no man does, nor can, foresee how far they may go on, especially if interrupted therein: besides, was it not verify'd by the evidence, that the pistols were brought into the lady's room, and laid by him, and the use of them declared? If so, is the urging of these things to be imputed as a fault in the counsel, who is intrusted in

in the cause? No, for if he had not done so, he would not have done his duty, or been true to his trust.

Having said this, with regard to what was mention'd against myself, I must beg leave to take notice of the gentlemen's defence, in order to lessen the damages. They say, that it appears from several letters of the plaintiff, that he had conceived an ill opinion of his lady's conduct at the Bath, by reason of her keeping company with vile people there, before the defendant was acquainted with her; therefore, say they, let these people who seduced her first bear the burden, as being the authors of the plaintiff's uneasiness and misfortunes, and excuse the defendant; or, at least, don't load him with all the guilt. I am surprized at this defence made for him, to the dishonour of the lady: how inconsistent is this with the written agreement, or engagement, of that noble lord the defendant; who promised to defend the lady's honour to the

last, at the expence of his blood, life, and fortune, against any calumny, calumniator, or peril whatsoever? I said before, that he was much mistaken in his point of honour, to think that he was bound by it, at so great an expence, to defend and vindicate injustice: but I am now more concern'd for the unhappy lady, when I find that the tempter is become an accuser, which is certainly acting the ill part; but yet this use may be drawn from it; it may be a warning to others, who may be tempted to be seduced afterwards.-----Gentlemen, consider the nature of this defence and way of arguing, and the consequence of it: it may be, some may be seduced sooner, and others later, to the utter ruin of families; so that, if the plaintiff, according to their way of arguing, hath not the good fortune to lay hold on the first seducer, and make good his prosecution against him, it will avail him nothing to lay hold on the latter.

And

And suppose there were another concerned in the present case, before the defendant, (which we do not admit) will that excuse the defendant? No, such a defence is very ill founded, as being contrary to law, and a great encouragement to vice and immorality.

I think the first of the plaintiff's letters to his lady is dated the 2d of ----- last; but our witness gives an account, that the acquaintance between the defendant and the lady began about the middle or latter end of ----- before. [Here the lord chief justice said, *That she fixt it to the latter end of -----.*] Now, my lord, because the plaintiff, in this letter, takes notice of the lady's not behaving herself well at the Bath; and because, he says therein, *That he was determined to part with her,* and tells her what he would allow her a year, for her separate maintenance, therefore they would have it, that he had actually parted; but the words will bear no such construction: for it appears



thereby, that he had not parted with her, nor settled, nor executed the terms he proposed; but this letter shews, that his heart was full of grief and tenderness towards his lady and her reformation; for he entreats her to shake off her Bath acquaintance, and to be more intimate with her own relations, who wish'd her well; and prays, that her future conduct might be such, as to intitle her to the applause of her friends, which certainly included himself, who had a great affection for her, and an earnest desire of reclaiming her conduct: nor can it be said, that by this letter, he excluded their reconciliation together, which might have been brought about by the intercession of friends and relations. It is true, he alarms her of parting with her; but it appears from the passionate and tender part of the letter, that he had not entirely given her up, nor brought himself to a final resolution of actually parting with her; there was room left for intercession



cession and reconciliation. And though he repeats the same words, in his second letter to her, the 7th of the same month of -----, *That he is determined to part, whatever the world says about it; and remonstrates with her, and says, that he is as unhappy as he can be; yet, as I said before, these expressions do not imply, that he had actually parted with her; for the very words afterwards shew the contrary: he says, He knew he was going to subject himself to the talk of other people, who knew nothing of the affair; and that some would blame him, and others her: and then, after that, he prays for her future better conduct; and, indeed, the tenderness of these letters shew, that he only came to a resolution to try, whether the alarming her with a separation would not reclaim her conduct: and it could not be expected, after he had charged her with the cause of his unhappiness, that he should, immediately upon that, say, Return, and I will receive you kindly,*

*notwithstanding your former conduct:* no, that would not have been proper.

I think it was insinuated, that he had not only left her, but that he had taken a house for her at (I), but they did not prove it. [Here the lord chief justice said, *They have not proved it.*] Besides, if he had cast her off, and had not a mind to regard her any more, how came he to take care about the securing and confining her there? That very thing shews that he had not cast her off.

Gentlemen, I submit it to my lord and you, whether or not, in a crime of this heinous nature, you ought not only to have a regard to the great injury done to the plaintiff's family in particular; but also, as it is destructive to all families in general? And whether there is not also some regard to be had to the discouraging of vice and immorality, and the encouraging of virtue? I hope I may say this without being charged with aggravating the crime, or raising the passions; and  
there-

therefore I submit it to you, what satisfaction you shall think proper to make.

Mr. -----, my lord, I beg your patience a little. I did not at first propose to insist on the defendant's guilt and punishment; but left them entirely to the evidence of the witnesses, and your consideration; but as the gentlemen on the other side have thought fit to take a new method of defence, and have, with a great deal of art, endeavour'd to draw a veil before your eyes, that you might not see things in the light, or in their true light; and as I may incur blame, if I should be altogether silent therein, though there is not much left for me to say, I must therefore beg leave to trespass a little on your lordship and the jury's patience.

And, with respect to the guilt of the defendant, I must say, if the gentlemen had no evidence to give in contradiction to ours, they should not have attempted to defend it. It is

true, that the gross fact is only proved by one witness; and the lady must have proceeded to a shameful degree indeed, if it could be proved by any more; but then it must be considered, that this was sworn to by a person whom they have not been able to contradict; and you will observe how consistently she speaks to every thing, tho' she stood a long cross-examination; nor have they impeached her character; they have only imputed to imprudence and weakness, in agreeing to what the lady proposed; which is a plain mark of the intimacy between them. Besides, it is a maxim and principle in the law, that if you will have evidence of things that pass in bad places, you must make use of the people that go there: so that if you are to have evidence concerning the lady, you must make use of her waiting-maid, and take notice of what she says, because it is impossible that it should be proved otherwise.

It



It was said, that it was a very improbable and unlikely thing, that the lady would put such great confidence in this witness. But have not we proved by several witnesses, that the lady had a great affection for this woman, spoke well of her, and shew'd a great deal of kindness towards her, used uncommon familiarity with her, and put great confidence in her?

It was observed, that, on my lady and the defendant's first putting that question to this witness, *Whether she could keep a secret*; she readily said, *Yes*, knew their meaning, and consented to it without reluctance; but there would have been no room for such an observation, if she had been suffered to go on and acquaint you with the whole affair as it passed; nor is this witness's ready compliance to be thought extraordinary, considering what she knew before of the lady's affection for the defendant, and the unseasonable hours they sat up together.



As to what was observ'd about her concealing, or denying that she knew any thing of the transaction, after she was taken into custody, that does not, in the least, interfere with her evidence here upon oath; and that she should, at first, conceal and deny it, for a while, and not tell it at once, when asked, is no surprize; especially as she was not on her oath, because she might be apprehensive that it would be dangerous for her to discover any thing about it; but, at last, on a farther consideration of her duty, and out of a regard for her injured master, she thought proper to discover the whole transaction upon oath.

But, as hath been mentioned, the whole does not rest upon her evidence, tho' that stands uncontradicted, and likewise her character unimpeach'd by any evidence on the other side; for you have strong circumstances of such criminal familiarity and intimacy between them, long before that night, the 13th of -----; for how came the  
defen-

defendant and the lady to meet together at the inn at (H)? Why did his servant, in the way, come to meet her, and look into her coach, and return immediately? And how came she afterwards to meet the defendant at the same inn there, and sup with him alone, and sit up alone so late by themselves, if there had not been such intimacy between them? For it is plain, that that was no accidental meeting, but a fixt one before hand: would any lady of modesty have done so? To sit so many hours together by themselves, and at such unseasonable hours too: I would not go over the unseasonable visits at (I), nor the midnight visit there, when the men servants were in bed, and the lady almost undress'd, and how she dress'd herself again, and came down to him, and order'd the men-servants not to be disturb'd; and entertained him, and sat up with him alone 'till next morning, which is confirm'd by the evidence of other witnesses, as well

as of (Q), who has likewise confirmed it in other parts of her evidence ; for it is prov'd, that the defendant did not come to his bed at the inn at (I) that night, the 13th of -----, which he had bespoke, tho' his servant lay there ; nor have they told you of any other place elsewhere that he lay that night ; which to be sure they would have done, if he had not been with the lady.

And then his letters wrote by him to the lady, after the 13th of -----, confirm what (Q) says of their criminal conversation that night : in one of them, dated the 22d of the same month of ----- last, he says, in excuse for not coming to see her, [*Another thing which hath prevented me is my not having recovered the injury I did myself, by the last journey, which hath a plain reference to the fatigue he underwent that night, in the criminal conversation with the lady.*] It was not an injury *that he received*, but an injury *that he did himself, that night.*

In

In that letter he begins and makes his address to her, thus, [*My angel*], and concludes thus, [*I long for the expiration of these next five months, and then I hope to be with you. Adieu, my angel*]. And, in the same letter, he says, [*The greatest happiness I enjoy in absence from you, is hearing from you*] and so on; giving the reason for his not coming from (*Aa*) to visit her at (*I*). Is this language proper to be writ by a gentleman to a married lady? That very letter speaks the criminal conversation between them the 13th of ----, and which his other letters to her also confirm: and therefore, with regard to the truth of the fact, nothing can be plainer, nor can a greater proof be given or required; and to endeavour to make it clearer, would be but like lighting a candle at noon-day.

The next thing I would speak to, is with regard to the satisfaction that is due to the injured gentleman, by way of punishment inflicted on the defendant. The gentleman who opened



pened for the defendant, and, I believe, he spoke the sentiments of his heart, told you, *He sympathized, and had a fellow-feeling with the plaintiff in his misery and affliction*; and, indeed, a man must be void of humanity not to sympathize with any one that lies under such domestic afflictions, which is the most vehement of all others; but more especially when it is the case of a gentleman of fortune, character and honour: and that the plaintiff is such, I believe you all know, who, I must say, married this lady, not with any view of money or fortune, but with a view to be happy with her all his life; and to have a virtuous and good mother to those whom he should happen to have, to inherit his estate after him; for he had a vehement love for her, as appears from his letters to her, which the gentlemen of the other side have produced; and which certainly must increase his affliction, as was opened by the gentleman for the plaintiff; who, I am sure,



sure, spoke his thoughts; and I will make bold to add, that I do not think it is in the power of language to make the plaintiff's case more calamitous than it really is.

But what is this that the gentlemen of the other side have set up by way of defence, in order to extenuate the defendant's guilt, and lessen the damages? That which they offer and produce, is two letters from the plaintiff to his wife; which shew that there is a conspiracy between the wife and the adulterer against the husband, and is a further confirmation of their criminal intimacy; for who gave the gentlemen these letters, who put them into the hands of this defendant? To be sure the plaintiff's wife, the lady L-----, for they could have them no other way; nor have they given you any account how they came at them; so that here is the wife, in the face of the court, endeavouring to screen the adulterer from

from the punishment and satisfaction which the law inflicts and prescribes.

I was, indeed, at first, before I observed the conspiracy, very much moved with compassion for the unhappy lady, to think that her virtue was first betrayed by the defendant, and then her honour given up by him afterwards, which he promised to defend to the last; and, by the way, I must say, that the defendant hath not acted honourably or consistently with his written engagement to the lady; and that it is very surprizing, he, who *thought himself bound in honour to defend her to the last with his blood, life and fortune against all calumnies and calumniators whatsoever*, should here, by his counsel, who appear in his place and stead, be the first calumniator; for they have pleaded, that she was a prostitute, or an abandon'd woman, before the defendant had any acquaintance with her; and that he was not the first seducer.

The

The two letters wrote by the plaintiff to his lady, and produced by the other side, are dated one the 2d, and the other the 7th of ----- last; and they have been read to you; and, I believe, there was no one heard them read, but what was moved by them; for, in them, there is the picture of the affection and tenderness that he had for his lady, and the calamity he was then groaning under. But it was said, by the gentlemen for the defendant, that the plaintiff's uneasiness and affliction appears, by these letters, not to rise from the defendant's acquaintance with his wife, but from people's acquaintance before his; and, therefore, there was no reason to burden him with it: but I beg leave to say, that what they alledge does not follow from these letters; for the first letter is dated the 2d of ----- last; and the first witness fixes the defendant and the lady's acquaintance to have begun about the latter end of ----- before that; so that his acquaintance

tance with her might be one cause of his uneasiness; for there is no proof before you to the contrary, nor any other proof but what they had in their keeping, and which they think proper to shew: and there may be other proof of it in their custody, which they have not produced. However, observe his tenderness and affection for her in this letter; when he is acquainting her of his intended separation, he freely and generously offers her 800 l. a year, besides her jewels, which he says, was at her service, and gives her his best advice, and prays for her health and happiness. And give me leave to say, that tho' he writes to her, *That he was resolved to part*, yet there are such marks of affection and tenderness towards her in these letters, that there was room left for bringing about a reconciliation betwixt him and his lady, by the interposition and intercession of friends and relations, with whom he desires her, in one of the letters, *To be more intimate,*



*intimate, because they wish her well:* and shall the defendant, at such a time as this, when he knew there were differences between the plaintiff and his lady, and that he had some jealousy in him: I say, shall he, at such a time as this, step in and widen the breach, by his indecent visits at her house in (I) and other places, and by his sitting up with her alone at such unseasonable hours, and by his betraying and seducing her at last? That the defendant did these things when the plaintiff had uneasiness and jealousy in his mind, is so far from being an extenuation of his guilt, that it is really a great aggravation of it; because, by his so doing, he hath now made the breach irreparable, and their reconciliation impossible, which otherwise might have been made up by the intercession of friends and relations, as I said before: besides, with regard to the unhappy lady herself, it was really taking the advantage of her, by attacking her in her husband's absence,

when



when she was, no doubt, under concern at his uneasiness and jealousy, and at his proposals of parting with her; for if he had not attack'd her, under such disadvantageous circumstances, he could not so easily have ruined her; because she would have been more upon her guard. And for them to say, or insinuate, because the plaintiff had some difference with his lady, and left her for a little while, and went to his country seat, and sent her these letters, that therefore any man may have criminal conversation with her in his absence, would be of very dangerous and destructive consequence; therefore, I submit it to your lordship, and you gentlemen, that what they have offered, in order to extenuate the defendant's guilt, and lessen the damages, does rather serve to aggravate the one, and heighten the other.

Then it was said, that this present action was brought by the plaintiff, for damages sustained by him, on account

count of his being deprived of the comfort and society of his wife, which, they say, cannot be great, because he had, in some measure, deprived himself thereof before: but I beg leave to say, that the action is likewise brought for criminal conversation with her, which is such an injury done to the plaintiff, that it is impossible to estimate the damages. What satisfaction can be made to a husband, who hath lost the comfort of his wife, whom he loved to madness, as one of the letters mention? Or what satisfaction can be made for having a spurious issue brought into his family, and for being forced to expose himself and family here, in the face of a public court, and to have them in the mouths of the whole world, in order to do himself and family justice? These are things which cannot admit of satisfaction: indeed, it is for our satisfaction that we bring the action here, because the plaintiff could not possibly get rid of the lady, who hath  
so

so greatly injured him; and, I am afraid, that without a great deal of more trouble and expence, he will not get rid of her spurious issue from inheriting his estate. Therefore, I say, that it is impossible for the defendant to make him satisfaction; for let any gentleman here but make it his own case, which I believe he would not for the Indies, and then let him judge whether sufficient satisfaction can be made: besides, the damages here, are not given, in law, by way of satisfaction or compensation to the party injured, that being impossible, as I said before, but they are given as a punishment inflicted on the defendant, and for the sake of the public, and for example's sake, in order to restrain others from committing such an heinous and injurious offence, which introduces unspeakable afflictions into private families, and great inconveniencies into the world. I am sure that you all know, that this crime

crime of adultery was thought so injurious among the Jews, that, by the law of Moses, it was ordered to be punished with death; and, indeed, the Roman law, even after the planting of christianity, ordered the same punishment for that crime; but this is not the punishment that is inflicted by our law, which only allows damages to be given to the husband, by the defendant, by way of punishment.

And as to their saying, that the plaintiff had in some measure lost the comfort of his wife before that, by reason of the difference between them, I think I have fully answered that already, and shewn, that his attacking her, at that time, is rather an aggravation than extenuation of his guilt.

Another thing offered to extenuate the guilt and damages was, the defendant's circumstances; they say, that he is a younger brother of a very great and noble family, and hath the honour to command one of his majesty's ships.



ships. As to that, this will not prove what his circumstances are; besides, this can be no excuse for the defendant, though his circumstances were meaner; and the injury is the same to the plaintiff, whether it was done to him by one of an opulent fortune, or by one of none at all; for the circumstances of the person does not alter the nature or punishment of the crime;—nor hath the meanness of the offender ever had any weight with the jury; for it is very well known, that a jury, in order to punish no greater person than a footman, and to make him an example to others, gave the plaintiff 5000 l. damages, as a punishment inflicted on the footman for lying with his mistress, who must first have encouraged him, before he could have attempted it: and therefore I submit it to you, whether that case of the footman was not more favourable than this?

There was another thing mentioned,



tioned, for which I am sorry, because it is treating the afflicted and unhappy gentleman with ridicule, which is inhumane. It was said, to this effect, that you should find a verdict for the defendant, which would be the best damages for the plaintiff; because it would, in a great measure, clear his lady's character. To which I answer, God forbid: it would be very hard, indeed, for the plaintiff to see himself injured in the most tender part of his property, and, at the same time, to be denied the satisfaction that the law allows; but we are in no doubt of your doing the plaintiff justice, and I submit it to you, whether that which hath been offered for the defendant; is not rather an aggravation, than an extenuation of his guilt. I beg pardon for trespassing so much on your lordship and the gentlemen of the jury's patience.

Then the lord chief justice summ'd up the evidence on both sides, (as the counsel open'd) with their arguments. Afterwards the jury went out, and brought in a verdict for the plaintiff, allowing him 5000l. damages, and 40s. costs.

*The End of the First Volume.*

